United States Court of Appeals

for the Second Circuit

JOINT APPENDIX

76-4212

United States Court of Appeals

FOR THE SECOND CIRCUIT

NO. 76-4212

THE CONNECTICUT LIGHT AND POWER COMPANY
Petitioner

v.

FEDERAL POWER COMMISSION
Respondent

ON PETITION FOR REVIEW FROM THE
FEDERAL POWER COMMISSION

B
P/S

JOINT APPENDIX
THE CONNECTICUT LIGHT AND POWER COMPANY
AND
FEDERAL POWER COMMISSION

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UNITED STATES COURT OF APPEALS
DEC 28 1976
FILED
SECOND CIRCUIT

Volume 1 of 3

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IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

The Connecticut Light and Power Company, Petitioner,	)	
v.	)	No. 76-4212
Federal Power Commission, Respondent.	)	

CERTIFICATE OF RECORD IN LIEU OF RECORD

Pursuant to the provisions of Section 313(b) of the Federal Power Act (49 Stat. 860, 16 U.S.C. 8251), Section 2112 of Chapter 133 of Title 28 of the United States Code, as amended by the Act of August 28, 1958, 72 Stat. 941-942, and Rule 17 of the Federal Rules of Appellate Procedure, the Federal Power Commission hereby certifies that the materials listed and described below are (1) the order complained of, entitled Connecticut Light and Power Company, issued May 24, 1976, Project Nos. 2576, 2604, 2632 and 2646, (2) the complete record upon which such order was entered, and (3) the applications for rehearing together with the Commission's action thereon.

The documents listed below are the transcripts of hearings held in this matter:

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Prehearing Conference held July 25, 1974	1-53
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The exhibits listed below were received in evidence, except as otherwise indicated:

Exh. No.	Description	Certified Pagination
1 - 4	Load Flow Diagrams	808-811
5	Main Electric Systems of Southern New England	812
6	Work Performed after August 26, 1935, Stephenson Project, FPC Project No. 2646, CL&P	813
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8	Work Performed after August 26, 1936, Bull's Bridge Project, FPC Project No. 2604, CL&P	815-816
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12	Newspaper Clippings, Berlin, Connecticut, October 29, 1935	835-838
13	Profile of the Housatonic River	839
14	Graph Showing the Rate Curve of the Gauging Station at River 19.2 of the Housatonic River	840
15	Graphs Showing the Daily Generation of the Four Projects for July, August and September, 1974 and for July, August and September, 1971	841-842
16	Map of the Housatonic River's Lowest 20 Miles	843
17	Five Computer Printouts concerning Backwater Studies of the Housatonic River	844-848
18	Graph Showing Water Surface Profiles of the Housatonic River for the Lowest 13 miles of the River	849
19	Navigability of the Housatonic River: Report on Findings of Historical Evidence	850-901
20	Supplement to Exhibit 11	902-915
21	A Book, Boating Trips on New England Rivers, by Henry Parker Fellows	916-952
22	Photocopied pages of a Book: History of Berkshire, Mass., edited by Dudley D. Field	953-963

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23 -	Photocopied pages of Book about Connecticut, by Joseph B. Hoyt	964-969
24 -	Photocopied pages from a book about the History of Newtown, Conn., Prepared by Jane Eliza Johnson	970-974
25 -	Photocopied pages from Book holding the Public Records of Connecticut, May 1973 thru October 1976, Compiled by Leonard Woods Larabee and Catherine Fennelly	975-978
26	Photocopied Pages from Book about the Housatonic River, by Chard Powers Smith	979-984
27 -	Photocopied pages of the History of Cornwall, Conn., by Edward C. Starr	985-988
28 -	Photocopied pages from Book about Connecticut's People, by Iveagh Hunt Sterry and William H. Garrigus	989-990
29 -	Photocopied pages of Book about the History of Great Barrington by Charles J. Taylor	991-995
30 -	Photocopied Pages from book Holding the Public Records of the Colony of Connecticut for period May 1678 thru June 1689, J. Hammond Trumbull	996-1003
31 -	Photocopied pages of Book about HampdenCounty, 1636 thru 1936, by Clifton Johnson	1004-1005
32 -	Photocopied pages of book about History of the Town of Rockingham, Vermont, by Lyman Simpson Hayes	1006-1008
33 -	Published story appeared in the New Haven (Connecticut) Register sometime in 1951 or 1952	1009

Exhibit	Description	Certified Pagination
34 -	Dictionary of American Biography	1010-1014
35 -	Map of the Housatonic Valley	1015
36 -	Connecticut Historical Collections	1016-1020
37 -	Historical Adress delivered at the Commemoration of the One Hundredth Anniversary of the First Annual Town Meeting of the Town of Salisbury, by Samuel Church	1021-1025
38 -	The Public Statute Laws of the State of Connecticut, Published by the Authority of the General Assembly, 1808	1026-1027
39 -	Photocopied pages from Town records of the Town of Cornwall, Connecticut	1028-1029
40 -	Travels: New-England and New York, by Timothy Dwight	1030-1032
41 -	History of the Old Town of Derby, Connecticut, 1642 thru 1880, by Samuel Orcutt and Ambrose Beardsley	1033-1035
42 -	Marked for identification and rejected	(pp. 1036-37 not use
42A-	Photococopied pages of a hand-written copy of an unknown work in the Collection of the Cornwall Historical Society	1038-1044
43 -	Photo copy of an introductory page from Edward C. Starr's A History of Cornwall, Connecticut, published in 1926	1045
44 -	Photo copy of a page from an unpublished manuscript written in 1825 by Rev. Timothy Stone	1046-1047
45 -	Energy Transferred to or Across State Lines for the year 1973 by the Connecticut Light and Power Company	1048
46 -	Interstate Transactions of Energy of The Connecticut Light and Power Company	1049-1050

The Items by Reference listed below were received in evidence:

Item		Certified Pagination
A -	Water Resources of Connecticut, Report to the General Assembly by the Water Resources Commission, State of Connecticut, 1957	1051-1052
B -	House Documents, 72nd Congress, 1st Session, Examinations of Rivers and Harbors, Volume 3	1053-1064
C -	House Document, 77th Congress, 1st Session, Examinations of Rivers and Harbors, Volume 2	1065-1067
D -	List of Bridges over Navigable Rivers of the United States, issued by the Department of the Army, 1948 Edition, Revised July 1, 1941	1068-1069
E -	The Resources of the New England-New York Region, Part Two, Chapter XXII, Housatonic River Basin	1070-1075
F -	State of Connecticut, Public Document, Special, Report of Connecticut Rivers and Harbors Commission to the General Assembly	1076-1077
G-1 -	Bull's Bridge Project Application dated June, 1966, FPC Project 2604	1078-1131
G-2 -	Rocky River Project Application dated December, 1966, FPC Project 2632	1132-1159
G-3 -	Shepaug Project Application dated February, 1966, FPC Project No. 2576	1160-1272
G-4 -	Stephenson Project Application dated April, 1967, FPC Project 2646	1273-1344

Item	Certified Pagination
H - North Atlantic Regional Water Resources Study, Appendix K, Navigation, Page K-106, dated May 8, 1972	1345-1346
I - Northeast Flood Studies, Report on Review of Survey for Flood Control, Housatonic River Basin, Pages 12 & 13, dated Sept. 13, 1963	1347-1349
J - United States Geological Survey, Water Supply Papers and Water Resources Data for Connecticut for all years of record	*
K - Register of Dams in the United States, 1958 Edition, compiled by T. W. Mermel, published by the United States Committee on Large Dams	*
L - FPC Form No. 12, Power System Statement, for the years 1950 thru 1973 filed with the FPC by Conn. Light & Power Co.	*
M-1 - U. S. Geological Survey Quadrangle Map for Ansonia, Connecticut dated 1972	1350
M-2 - U. S. Geological Survey Quadrangle Map for Milford, Connecticut dated 1960	1351
N - U. S. Coast and Geodetic Survey Map No. 219, North Shore of Long Island South - Housatonic River and Milford Harbor, dated February 10, 1973	1352

* In the interest of economy we have not numbered Items J,K, and L as they are very bulky documents. If any party should desire to cite to a specific document, the Commission will, upon an informal request, supplement the record with page numbers as needed.

The documents listed below are the pleadings and other papers filed in this matter:

Description	Certified Pagination
Connecticut Light and Power Company Notice of Withdrawal and Application for Order, P-2576, received 12/27/73	1355-1361
Connecticut Light and Power Company Application for Order and Notice of Withdrawal, P-2604, received 12/27/73	1362-1367
Connecticut Light and Power Company Notice of Withdrawal and Application for Order, P-2632, received 12/27/73	1368-1373
Connecticut Light and Power Company Notice of Withdrawal and Application for Order, P-2646, received 12/28/73	1374-1379
Order Granting Intervention, P-2632, issued 4/29/74	1380
Notice of Application for Withdrawal of Application for License (Major), issued 6/5/74 (P-2576)	1381-1382
Notice of Application for Withdrawal of Application for License (Major), issued 6/5/74 (P-2604)	1383-1384
Notice of Application for Withdrawal of Application for License (Major), issued 6/5/74 (P-2632)	1385-1386
Notice of Application for Withdrawal of Application for License (Major), issued 6/5/74 (P-2646)	1387-1388

Description	Certified Pagination
Order Providing for Pre-Hearing Conference, P-2576, et al., issued 6/25/74	1389-1392
Motion of Commission Staff Counsel for Exchange of Statements of Fact Before Prehearing Conference, received 6/28/74	1393-1396
Notice for Prehearing Conference, issued 7/1/74	1397-1398
Order on Motion for Exchange of Statements of Fact Before Prehearing Conferance, issued 7/16/74	1399-1400
Lake Lillinonah Authority Petition to Intervene, received 7/16/74	1401-1402
CL&P Preliminary Statement of Facts, received 7/19/74	1403-1421
Connecticut PUC Notice of Intervention, received 7/19/74	1422-1424
Connecticut Department of Environmental Protection Petition for Leave to Intervene, received 7/24/74	1425-1429
CL&P Answer to Petition to Intervene of Lake Lillinonah Authority, received 7/25/74	1430-1435
Order Granting Intervention, issued 10/21/74	1436-1437
Lake Linninonah Authority Statement, received 11/14/74	1438-1440
Commission Staff Motion to Reopen Record Solely for Receipt in Evidence of Exhibit, received 1/23/75	1441-1445
Presiding Judge's Order Granting Motion last above, issued 2/25/75	1446

Description	Certified Pagination
CL&P Motion to Withdraw Order of the Presiding Judge, received 2/28/75	1447-1448
CL&P Response to Staff's Motion to Reopen Record, received 2/4/75	1449-1454
Presiding Judge's Order Vacating Order Issued 2/25/75 and on Reconsideration Granting Motion to Reopen Record and Receive an Exhibit, issued 3/11/75	1455-1459
Presiding Judge's Order Affording Opportunity to Comment on Officially Noticed Matter, issued 4/22/75	1460-1464
Certification of Record of Hearing, filed 8/19/75	1465
Initial Decision as to Federal Power Commission, filed 8/19/75	1466-1499
Candlewood Lake Defense Associates letter endorsing initial decision, received 8/20/75	1500-1502
Commission Staff Brief on Exceptions, received 10/3/75	1503-1513
Candlewood Lake Authority Brief on Exceptions, received 10/3/75	1514-1527
CL&P Co. Brief on Exceptions, received 10/3/75	1528-1548 1548A-1548T
CL&P Co. Brief Opposing Exceptions, received 10/23/75	1549-1563
Candlewood Lake Defense Associates Brief Supporting Exceptions, received 10/23/75	1564-1572

Description	Certified Pagination
Candlewood Lake Authority Brief Opposing Exceptions, received 10/23/75	1573-1577
Commission Staff Brief Opposing Exceptions, received 10/23/75	1578-1603
Commissioner of the Connecticut Department of Environmental Protection, Brief Opposing Exceptions, received 10/24/75	1604-1608
Order Affirming Initial Decision, issued 5/24/76	1609-1610
Connecticut Light and Power Company, Application for Rehearing,	1611-1624
Order Denying Application for Rehearing, issued 7/23/76.	1625-1626.

By the Commission.

In witness whereof I have hereunto subscribed my name and caused the seal of the Federal Power Commission to be affixed this 12th day of November 1976, at Washington, D. C.

Secretary

UNITED STATES OF AMERICA

Before The

FEDERAL POWER COMMISSION

****

APPLICATION

THE CONNECTICUT LIGHT AND POWER COMPANY

FOR LICENSE

BULLS BRIDGE PROJECT

****

JUNE, 1966

Before The
Federal Power Commission
Application for License

Item by Reference G-1

1. The Connecticut Light and Power Company, a corporation organized under the laws of the State of Connecticut and having its office and principal place of business at 107 Selden Street, Berlin, in the State of Connecticut, hereby makes application to the Federal Power Commission for a license for a term of 50 years from the date of its issuance to authorize the operation and maintenance of certain project works fully described herein, located on the Housatonic River in the State of Connecticut and known as the "Bulls Bridge Project," upon terms and conditions in conformity with the Federal Power Act and acceptable to the applicant.

In filing this application with the Commission, the applicant expressly reserves all rights to contest, in any proper manner or forum, the Commission's jurisdiction to require a license for this project. The project is not located on a navigable reach of the Housatonic River and has no effect on downstream navigation. See The Connecticut Light and Power Company, 11 FPC 1548 (1952), in which the Commission reached these conclusions with respect to a proposed project to be located downstream from the Bulls Bridge Project. The Bulls Bridge Project does not utilize any surplus water or power, and does not affect any lands or reservations of the United States.

* * * * *

Item by Reference G-2

UNITED STATES OF AMERICA

Before The

FEDERAL POWER COMMISSION

****

APPLICATION

THE CONNECTICUT LIGHT AND POWER COMPANY

FOR LICENSE

ROCKY RIVER PROJECT

****

DECEMBER, 1966

Before The
Federal Power Commission
Application for License

1. The Connecticut Light and Power Company, a corporation organized under the laws of the State of Connecticut and having its office and principal place of business at 107 Selden Street, Berlin, in the State of Connecticut, hereby makes application to the Federal Power Commission for a license for a term of 50 years from the date of its issuance to authorize the operation and maintenance of certain project works fully described herein, located on the Housatonic River and the Rocky River in the State of Connecticut and known as the "Rocky River Project," upon terms and conditions in conformity with the Federal Power Act and acceptable to the applicant.

In filing this application with the Commission, the applicant expressly reserves all rights to contest, in any proper manner or forum, the Commission's jurisdiction to require a license for this project. The project is not located on a navigable reach of the Housatonic River and has no effect on downstream navigation. See The Connecticut Light and Power Company, 11 FPC 1548 (1952), in which the Commission reached these conclusions with respect to a proposed project to be located downstream from the Rocky River Project. The Rocky River Project does not utilize any surplus water or power, and does not affect any lands or reservations of the United States.

* * * * *

UNITED STATES OF AMERICA

Before The

FEDERAL POWER COMMISSION

****

APPLICATION

THE CONNECTICUT LIGHT AND POWER COMPANY

FOR LICENSE

SHEPAUG PROJECT

****

FEBRUARY, 1966

APPLICATION FOR LICENSE UNDER PROTEST THAT
FEDERAL POWER COMMISSION LACKS AUTHORITY
TO REQUIRE A LICENSE

By letter of July 13, 1965, the Federal Power Commission notified Connecticut Light and Power Company (hereinafter referred to as Applicant or CL&P) that applications were required for all of its hydroelectric projects, stating that, unless a commitment to file applications was made by September 1, 1965, projects would be "considered for licensing on a short-term basis only." The Commission's letter contained no exception for CL&P's Shepaug Project, which was constructed pursuant to Federal authorization under Section 23(b) of the Federal Power Act. CL&P believes that no license may now be required for Shepaug. Because of the threatened penalties, however, CL&P has, under protest, filed this application. CL&P urges the Commission to determine that it has no jurisdiction to require a license and to dismiss this application.

This filing contains full data on the Shepaug Project. On June 2, 1952, a subsidiary of CL&P, Electric Power, Incorporated, filed with the Commission a Declaration of Intention to construct the Shepaug Project (attached hereto as Exhibit S-1). The Declaration contained full data on the Project, including a statement that its purpose was the "generation of electric power for sale to The Connecticut Light and Power Company for distribution to its customers." In addition, the Staff was supplied with additional facts and data about the Housatonic River.

By order of December 22, 1952, the Commission expressly found that "the interests of interstate or foreign commerce would not be affected by the construction and operation of the proposed Shepaug development." (11 FPC 1548; attached hereto as Exhibit S-2). Implicit in this finding was a determination that the Housatonic River at the project site was not a navigable

water of the United States. No public lands or reservations of the United States are affected by Shepaug. The Commission stated the effect of its findings to be "that the company will not be required to obtain a license under the Federal Power Act for the construction and operation of the project." (FPC Release No. 6442, December 30, 1952; attached hereto as Exhibit S-3). The Project was subsequently constructed and, prior to going into operation, was in December, 1954 transferred to CL&P.

In May, 1962, the Commission wrote to CL&P asking whether CL&P proposed to file applications for licenses for its hydroelectric developments. (Copy of May 4, 1962 letter attached hereto as Exhibit S-4). After acknowledging this request by a letter of May 22, 1962 (copy attached as Exhibit S-5), CL&P initiated an investigation of the status of its water-power developments. After this investigation was completed, CL&P advised the Commission that the Shepaug Project was constructed pursuant to final Congressional permission under the Federal Power Act and that it did not propose to apply for a license. (Attached hereto as Exhibit S-6 is a copy of pertinent parts of CL&P's letter of October 2, 1962).

The Commission never responded to CL&P's October 2, 1962 letter. In July, 1965, however, the Commission sent its form letter proposing shortened license terms unless applications were promptly filed. (Attached hereto as Exhibit S-7 is the Commission's July 13, 1965 letter). To protect itself from potential penalties, CL&P advised the Commission that it would file applications for its plants, including Shepaug, with disclaimers of jurisdiction, as was expressly authorized by the Commission's said letter. (Attached hereto as Exhibit S-8 is CL&P's letter of August 30, 1965). By this filing, CL&P requests the Commission to determine that it lacks authority to require a license for the Shepaug Project.

The Commission's 1952 order and the provisions of Section 23(b) of the Act constitute full Federal authorization for the Shepaug Project. As the 1952 FPC Release stated, this authorization means that no license will be required for the construction and operation of Shepaug (Exhibit S-3). Section 23(b) of the Federal Power Act provides specifically for a determination of the need for a license prior to construction of a proposed development. Upon findings by the Commission, as a delegatee-of-power of Congress, that the interests of interstate commerce will not be affected, the Act supplies the consent of Congress to the proposed project, stating that "permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws." The Act contains no provision for continuing Commission jurisdiction after a Section 23(b) determination that no license is required. The structure of the Act, the Congressional history, and Commission interpretations clearly show the intent to provide an irrevocable authorization upon such a determination. Arbitrary revocation of the Project's authorization, after the investment in reliance on the Commission's determination that no license was necessary, would frustrate the purpose of the Act to provide certainty to potential developers of water power sites.

The Commission is legally estopped from taking action to nullify the Shepaug authorization. Any requirement that a license now be obtained would be a "recapture" of CL&P's property in violation of the Fifth Amendment of the Constitution of the United States. Whereas the investment in a licensed project is made with the knowledge that recapture will be considered and may take place at the expiration of the license term, there was no such condition on the Shepaug investment. The requirement of a license would render Shepaug subject not only to condemnation for a fair value price, but also a take-over at the end of the license term for less than the fair value.

WHEREFORE, because the matters raised by this filing, including this protest that no license may be required, are of substantial legal significance, The Connecticut Light and Power Company respectfully prays:

1. That the Commission, before proceeding with the application itself, resolve the question of its authority to require a license.
2. That the Commission determine that it lacks authority to require a license for the Shepaug Project.
3. That should the Commission not concur with CL&P's position that no license can be required, CL&P requests that this legal issue be brought before the Commission by the filing of briefs and the holding of oral argument. Should the Commission conclude that facts in addition to those included in this filing are necessary, CL&P requests that the matter be set for hearing.
4. That the Commission dismiss this application upon the ground that it lacks authority to require a license.
5. For such other and further relief as Applicant may be entitled to in all the premises.

UNITED STATES OF AMERICA

Before The

FEDERAL POWER COMMISSION

****

APPLICATION

THE CONNECTICUT LIGHT AND POWER COMPANY

FOR LICENSE

STEVENSON PROJECT

****

APRIL, 1967

Before The
Federal Power Commission
Application for License

1. The Connecticut Light and Power Company, a corporation organized under the laws of the State of Connecticut and having its office and principal place of business at 107 Selden Street, Berlin, in the State of Connecticut, hereby makes application to the Federal Power Commission for a license for a term of 50 years from the date of its issuance to authorize the operation and maintenance of certain project works fully described herein, located on the Housatonic River in the State of Connecticut and known as the "Stevenson Project," upon terms and conditions in conformity with the Federal Power Act and acceptable to the applicant.

In filing this application with the Commission, the applicant expressly reserves all rights to contest, in any proper manner or forum, the Commission's jurisdiction to require a license for this project. The project is not located on a navigable reach of the Housatonic River and has no effect on downstream navigation. The Stevenson Project does not utilize any surplus water or power, and does not affect any lands or reservations of the United States.

* * * * *

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of THE CONNECTICUT LIGHT AND POWER COMPANY	:	PWR-LP Project No. 2604

NOTICE OF WITHDRAWAL AND APPLICATION FOR ORDER OF THE CONNECTICUT LIGHT AND POWER COMPANY

Filed on Behalf of
THE CONNECTICUT LIGHT AND POWER COMPANY

By: Day, Berry & Howard

and

William H. Cuddy
Attorneys for Applicant

Office and P.O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of THE CONNECTICUT LIGHT AND POWER COMPANY	PWR-LP Project No. 2604

NOTICE OF WITHDRAWAL
AND
APPLICATION FOR ORDER
OF
THE CONNECTICUT LIGHT AND POWER COMPANY

The Connecticut Light and Power Company (the "Company"), applicant for license in the above-entitled proceeding, pursuant to Section 1.11(d) of the Rules of Practice and Procedure of the Commission gives notice of withdrawal of its application to license Project No. 2604 and of all amendments to said application, and hereby respectfully requests the express permission of the Commission for such withdrawal.

The reasons for withdrawal as aforesaid are as follows:

1. Project 2604 (the Bulls Bridge Project) is not located on, and none of the project works is situated across, along or in, any of the navigable waters of the United States or upon any part of the public lands or reservations of the United States; nor does said project utilize the surplus water or water power from any Government dam.

2. Project 2604 was constructed prior to 1935 and no dam or other project works in connection with said project have been constructed by the Company within the meaning of the Federal Power Act across, along, over or in any stream or part thereof since prior to August 26, 1935.

3. The license application for this project was initially filed on June 29, 1966 with a reservation of the question of the jurisdiction of the Commission over the project. In 1972 the Court of Appeals for the Second Circuit decided in The Farmington River Power Company v. Federal Power Commission, 455 F.2d 86, 94 PUR 3d 1 (2d Cir. 1972), that pre-August 26, 1935 hydroelectric projects on non-navigable waters are not subject to the jurisdiction of the Commission and are not required to be licensed. As the question of the jurisdiction of the Commission over projects such as Project 2604 has now been resolved by the Farmington River decision, it is now appropriate to withdraw the application and its amendments.

Based on the foregoing and without waiving any other claim it may have, The Connecticut Light and Power Company respectfully requests that the Commission enter an order giving its express permission to the withdrawal of the referenced license application and all amendments for Project 2604.

If the Commission should disagree with the Company's position, the Company requests the opportunity for hearing and the right to file a brief and present oral argument prior to the issuance of a final order.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY

By: Day, Berry & Howard

By William H. Cuddy
William H. Cuddy
Its Attorneys

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103

Area Code 203 278-1330

VERIFICATION

STATE OF CONNECTICUT :
: SS. Hartford
COUNTY OF HARTFORD :

WILLIAM H. CUDDY, being first duly sworn, deposes and says: that he is an attorney for The Connecticut Light and Power Company, the applicant named above; that as such he has signed the foregoing Notice of Withdrawal and Application for Order; that he has been authorized by said Company to do so; that he has read said Notice of Withdrawal and Application for Order; that he is familiar with the contents thereof; and that the facts stated therein are true and correct to the best of his knowledge, information and belief.

William H. Cuddy
William H. Cuddy

Subscribed and sworn to before me this 21st day of December, 1973.

Jamillie T. Farrah
Notary Public
Jamillie T. Farrah
My commission expires 3/31/76.

[Seal]

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Section 1.17 of the Rules of Practice and Procedure.

Dated at Hartford, Connecticut, this 21st day of December, 1973.

William H. Cuddy

William H. Cuddy
Attorney for
The Connecticut Light and Power Company

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of THE CONNECTICUT LIGHT AND POWER COMPANY	PWR-LP Project No. 2632

NOTICE OF WITHDRAWAL AND APPLICATION FOR ORDER OF THE CONNECTICUT LIGHT AND POWER COMPANY

Filed on Behalf of
THE CONNECTICUT LIGHT AND POWER COMPANY

By: Day, Berry & Howard

and

William H. Cuddy
Attorneys for Applicant

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of THE CONNECTICUT LIGHT AND POWER COMPANY	PWR-LP Project No. 2632

NOTICE OF WITHDRAWAL
AND
APPLICATION FOR ORDER
OF
THE CONNECTICUT LIGHT AND POWER COMPANY

The Connecticut Light and Power Company ("the Company"), applicant for license in the above-entitled proceeding, pursuant to Section 1.11(d) of the Rules of Practice and Procedure of the Commission gives notice of withdrawal of its application to license Project No. 2632 and of all amendments to said application, and hereby respectfully requests the express permission of the Commission for such withdrawal.

The reasons for withdrawal as aforesaid are as follows:

1. Project 2632 (the Rocky River Project) is not located on, and none of the project works is situated across, along or in, any of the navigable waters of the United States or upon any part of the public lands or reservations of the United States; nor does said project utilize the surplus water or water power from any Government dam.

2. Project 2632 was constructed prior to 1935 and no dam or other project works in connection with said project have been constructed by the Company within the meaning of the Federal Power Act across, along, over or in any stream or part thereof since prior to August 26, 1935.

3. The license application for this project was initially filed on December 30, 1966 with a reservation of the question of the jurisdiction of the Commission over the project. In 1972 the Court of Appeals for the Second Circuit decided in The Farmington River Power Company v. Federal Power Commission, 455 F.2d 86, 94 PUR 3d 1 (2d Cir. 1972), that pre-August 26, 1935 hydroelectric projects on non-navigable waters are not subject to the jurisdiction of the Commission and are not required to be licensed. As the question of the jurisdiction of the Commission over projects such as Project 2632 has now been resolved by the Farmington River decision, it is now appropriate to withdraw the application and its amendments.

Based on the foregoing and without waiving any other claim it may have, The Connecticut Light and Power Company respectfully requests that the Commission enter an order giving its express permission to the withdrawal of the referenced license application and all amendments for Project 2632.

If the Commission should disagree with the Company's position, the Company requests the opportunity for hearing and the right to file a brief and present oral argument prior to the issuance of a final order.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY

By Day, Berry & Howard

By William H. Cuddy
William H. Cuddy
Its Attorneys

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

VERIFICATION

STATE OF CONNECTICUT:
: ss. Hartford
COUNTY OF HARTFORD :

WILLIAM H. CUDDY, being first duly sworn, deposes and says: that he is an attorney for The Connecticut Light and Power Company, the applicant named above; that as such he has signed the foregoing Notice of Withdrawal and Application for Order; that he has been authorized by said Company to do so; that he has read said Notice of Withdrawal and Application for Order; that he is familiar with the contents thereof; and that the facts stated therein are true and correct to the best of his knowledge, information and belief.

William H. Cuddy

William H. Cuddy

Subscribed and sworn to before me this 20th day of December, 1973.

[Seal]

Jamillie T. Farrah

Jamillie T. Farrah
Notary Public
My Commission Expires: 3/31/76

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Section 1.17 of the Rules of Practice and Procedure.

Dated at Hartford, Connecticut, this 20th day of December, 1973.

William H. Cuddy

William H. Cuddy
Attorney For
The Connecticut Light and Power Company

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of :
THE CONNECTICUT LIGHT AND POWER COMPANY : PWR-LP Project No. 2576
: Shepaug

NOTICE OF WITHDRAWAL
AND
APPLICATION FOR ORDER
OF
THE CONNECTICUT LIGHT AND POWER COMPANY

Filed on Behalf of
THE CONNECTICUT LIGHT AND POWER COMPANY

By: Day, Berry & Howard

and

William H. Cuddy
Attorneys for Applicant

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of THE CONNECTICUT LIGHT AND POWER COMPANY	:	PWR-LP Project No. 2576

NOTICE OF WITHDRAWAL
AND
APPLICATION FOR ORDER
OF
THE CONNECTICUT LIGHT AND POWER COMPANY

The Connecticut Light and Power Company ("the Company"), applicant for license in the above-entitled proceeding, pursuant to Section 1.11(d) of the Rules of Practice and Procedure of the Commission gives notice of withdrawal of its application to license Project No. 2576 and of all amendments to said application, and hereby respectfully requests the express permission of the Commission for such withdrawal.

The reasons for withdrawal as aforesaid are as follows:

1. Project 2576 (the Shepaug Project) is not located on, and none of the project works is situated across, along or in, any of the navigable waters of the United States or upon any part of the public lands or reservations of the United States; nor does said project utilize the surplus water or water power from any Government dam.

2. A Declaration of Intention was filed with the Commission prior to the construction of Project 2576. The Commission ruled by order of December 22, 1952 that the construction, maintenance and operation of Project 2576 would not affect the interests of interstate or foreign commerce, thus necessarily finding that the Housatonic River at the project site is not a navigable water of the United States and not subject to Commission licensing jurisdiction. Electric Power Inc., 11 F.P.C. 1548 (1952). This 1952 order and the provisions of Section 23(b) of the Federal Power Act ("the Act") constitute full Federal authorization for Project 2576.

3. There is no substantial evidence such as to support a change in that determination and to subject Project 2576 to the licensing jurisdiction of the Commission.

4. The license application for this project was originally filed on February 25, 1966 with a reservation of the question of the jurisdiction of the Commission over the project.

5. There is no authority invested in the Commission by the provisions of the Act which allows subsequent revision of preconstruction findings with respect to a

Declaration of Intention. The Commission lacks authority to require a license for Project 2576.

6. Additionally, the Commission has not been authorized to retract or revise the Congressional authorization for the construction, operation and maintenance of Project 2576 which is conferred by the Act subsequent to the Commission determination of non-navigability and lack of jurisdiction. The Act contains no provision for continuing Commission jurisdiction after a determination under Section 23(b) of the Federal Power Act that no license is required. Such determination provides an irrevocable authorization for said Project.

7. The Commission is legally estopped from altering its prior determination by the complete and reasonable reliance by the Company on the prospect of non-licensed operation of Project 2576 based upon the Commission's findings as to the Declaration of Intention and the expenditure in construction of Project 2576 which expenditure might never had been made had the Commission determination been otherwise. Any requirement that a license now be obtained would be a "recapture" of the Company's property in violation of the Fifth Amendment of the Constitution of the United States.

Based on the foregoing and without waiving any other claim it may have, The Connecticut Light and Power Company believes that it is now appropriate to withdraw said application and its amendments and respectfully requests that the Commission enter an order giving its express permission to the withdrawal of the referenced license application and all amendments for Project 2576.

If the Commission should disagree with the Company's position, the Company requests the opportunity for hearing and the right to file a brief and present oral argument prior to the issuance of a final order.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY

By Day, Berry & Howard

By William H. Cuddy
William H. Cuddy
Its Attorneys

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

VERIFICATION

STATE OF CONNECTICUT:
: ss. Hartford
COUNTY OF HARTFORD :

WILLIAM H. CUDDY, being first duly sworn, deposes and says: that he is an attorney for The Connecticut Light and Power Company, the applicant named above; that as such he has signed the foregoing Notice of Withdrawal and Application for Order; that he has been authorized by said Company to do so; that he has read said Notice of Withdrawal and Application for Order; that he is familiar with the contents thereof; and that the facts stated therein are true and correct to the best of his knowledge, information and belief.

William H. Cuddy

William H. Cuddy

Subscribed and sworn to before me this 20th day of December, 1973.

[Seal]

Jamillie T. Farrah

Jamillie T. Farrah
Notary Public
My Commission Expires: 3/31/76

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Section 1.17 of the Rules of Practice and Procedure.

Dated at Hartford, Connecticut, this 20th day of December, 1973.

William H. Cuddy

William H. Cuddy
Attorney For
The Connecticut Light and Power Company

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of :
THE CONNECTICUT LIGHT AND POWER COMPANY : PWR-LP Project No. 2646
: Stevenson

NOTICE OF WITHDRAWAL
AND
APPLICATION FOR ORDER
OF
THE CONNECTICUT LIGHT AND POWER COMPANY

Filed on Behalf of
THE CONNECTICUT LIGHT AND POWER COMPANY

By: Day, Berry & Howard

and

William H. Cuddy
Attorneys for Applicant

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

BEFORE THE
FEDERAL POWER COMMISSION

In the Matter of THE CONNECTICUT LIGHT AND POWER COMPANY	:	PWR-LP Project No. 2646

NOTICE OF WITHDRAWAL
AND
APPLICATION FOR ORDER
OF
THE CONNECTICUT LIGHT AND POWER COMPANY

The Connecticut Light and Power Company ("the Company"), applicant for license in the above-entitled proceeding, pursuant to Section 1.11(d) of the Rules of Practice and Procedure of the Commission gives notice of withdrawal of its application to license Project No. 2646 and of all amendments to said application, and hereby respectfully requests the express permission of the Commission for such withdrawal.

The reasons for withdrawal as aforesaid are as follows:

1. Project 2646 (the Stevenson Project) is not located on, and none of the project works is situated across, along or in, any of the navigable waters of the United States or upon any part of the public lands or reservations of the United States; nor does said project utilize the surplus water or water power from any Government dam.

2. Project 2646 was constructed prior to 1935 and no dam or other project works in connection with said project have been constructed by the Company within the meaning of the Federal Power Act across, along, over or in any stream or part thereof since prior to August 26, 1935.

3. The license application for this project was initially filed on April 26, 1967 with a reservation of the question of the jurisdiction of the Commission over the project. In 1972 the Court of Appeals for the Second Circuit decided in The Farmington River Power Company v. Federal Power Commission, 455 F.2d 86, 94 PUR 3d 1 (2d Cir. 1972), that pre-August 26, 1935 hydroelectric projects on non-navigable waters are not subject to the jurisdiction of the Commission and are not required to be licensed. As the question of the jurisdiction of the Commission over projects such as Project 2646 has now been resolved by the Farmington River decision, it is now appropriate to withdraw the application and its amendments.

Based on the foregoing and without waiving any other claim it may have, The Connecticut Light and Power Company respectfully requests that the Commission enter an order giving its express permission to the withdrawal of the referenced license application and all amendments for Project 2646.

If the Commission should disagree with the Company's position, the Company requests the opportunity for hearing and the right to file a brief and present oral argument prior to the issuance of a final order.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY

By Day, Berry & Howard

By William H. Cuddy
William H. Cuddy
Its Attorneys

Office and P. O. Address:

One Constitution Plaza
Hartford, Connecticut 06103
Area Code 203 278-1330

VERIFICATION

STATE OF CONNECTICUT:
: ss. Hartford
COUNTY OF HARTFORD :

WILLIAM H. CUDDY, being first duly sworn, deposes and says: that he is an attorney for The Connecticut Light and Power Company, the applicant named above; that as such he has signed the foregoing Notice of Withdrawal and Application for Order; that he has been authorized by said Company to do so; that he has read said Notice of Withdrawal and Application for Order; that he is familiar with the contents thereof; and that the facts stated therein are true and correct to the best of his knowledge, information and belief.

William H. Cuddy

William H. Cuddy

Subscribed and sworn to before me this 20th day of December, 1973.

[Seal]

Jamillie T. Farrah

Jamillie T. Farrah
Notary Public
My Commission Expires: 3/31/76

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Section 1.17 of the Rules of Practice and Procedure.

Dated at Hartford, Connecticut, this 20th day of December, 1973.

William H. Cuddy

William H. Cuddy
Attorney For
The Connecticut Light and Power Company

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

The Connecticut Light & Power Company) Project No. 2604

NOTICE OF APPLICATION FOR WITHDRAWAL OF APPLICATION FOR LICENSE (MAJOR)

(June 5, 1974)

Public notice is hereby given that an application was filed on December 27, 1973, under the Federal Power Act (16 U.S.C. §791a-825r) by the Connecticut Light and Power Company (Applicant) (Correspondence to: Edwin L. Johnson, Vice-President, The Connecticut Light and Power Company, P.O. Box 2010, Hartford, Connecticut 06101 and William H. Cuddy, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103) for withdrawal of the application for license filed on July 1, 1966, for constructed Bulls Bridge Project No. 2604 located on the Housatonic River, near Gaylordsville, in the towns of New Milford and Kent, in the counties of Fairfield and Litchfield, Connecticut.

The request for approval to withdraw the application for license is based on a decision of the United States Court of Appeals for the Second Circuit, Farmington River Power Company v. Federal Power Commission, 455 F.2d 86 (2d Cir. 1972). Applicant argues that the decision makes the Commission's jurisdiction over the project questionable.

The constructed Bulls Bridge Project consists of: (1) two dams-- (a) a cyclopean concrete gravity-arch dam on the east channel about 203 feet long and 24 feet high with an overflow spillway 195 feet long and (b) a masonry gravity dam on the west channel about 156 feet long and 17 feet high with an overflow spillway 120 feet long topped by 3-foot flashboards; (2) a reservoir at elevation 354 feet about 4.5 miles long with an area of about 120 acres and a gross storage of 1,800 acre-feet of which 233 acre-feet, at a drawdown of two feet, is normally used; (3) canal spillways consisting of two gated sections and two overflow sections; (4) a headgate structure controlling flow into the canal; (5) a power canal about two miles long; (6) a six acre forebay; (7) a forebay intake structure with penstock gates; (8) two steel penstocks about 420 feet long; (9) two steel surge tanks 96 and 98 feet in height, respectively; (10) a powerhouse containing six 2,000 hp

turbines each connected to a generator rated at 1,400 kw;
(11) an indoor substation containing six transformers; and
(12) appurtenant facilities.

Any person desiring to be heard or to make protest with reference to said application should on or before July 22, 1974, file with the Federal Power Commission, Washington, D. C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb
Secretary

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

The Connecticut Light and Power Company) Project No. 2632

NOTICE OF APPLICATION FOR WITHDRAWAL OF APPLICATION FOR LICENSE (MAJOR)

June 5, 1974)

Public notice is hereby given that an application was filed on December 27, 1973, under the Federal Power Act (16 U.S.C. §791a-825r), by the Connecticut Light and Power Company (correspondence to: Edwin L. Johnson, Vice-President, The Connecticut Light and Power Company, P.O. Box 2010, Hartford, Connecticut 06101 and William H. Cuddy, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103) for withdrawal of the application for license filed December 29, 1966, for its constructed Rocky River Project No. 2632 which is located on the Housatonic River in the counties of Fairfield and Litchfield, Connecticut, in the vicinity of Brookfield, Danbury, New Fairfield, New Milford, and Sherman.

The request for approval to withdraw the application for license is based on a decision of the United States Court of Appeals for the Second Circuit, Farmington River Power Company v. Federal Power Commission, 455 F. 2d 86 (2d Cir. 1972). Applicant argues that the decision makes the Commission's jurisdiction over the project questionable.

The existing Rocky River seasonal pumped storage project consists of: (1) an earth main dam 952 feet long (maximum height 100 feet); (2) four dikes: an 11 - foot high, 181 - foot long concrete gravity dike with a 57 - foot overflow section; a 15 - foot high, 522 - foot long concrete dike with a 391 - foot overflow section; a 45 - foot high, 167 - foot long earth dike; and a 42 - foot high, 873 - foot long earth dike in two parts; (3) a reservoir with a surface area of 5,600 acres at the normal elevation of 428.14 feet (U.S.G. S. datum) and with usable storage of 142, 560 acre - feet at a drawdown of 30 feet; (4) an intake canal 3,190 feet long; (5) an intake tower at the end of the canal; (6) a 15 - foot diameter conduit 943 feet long; (7) a surge tank; (8) a steel penstock 670 feet long, with an inside diameter reducing from 13 to 11 feet; (9) an indoor powerhouse containing three units, one a conventional generating unit rated at 24,000 kW, and two others being motor-generator units each having a rating as a generator of 3,500 kW; and (10) appurtenant facilities.

Any person desiring to be heard or to make protest with reference to said application should on or before July 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb

Secretary

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

The Connecticut Light and Power Company) Project No. 2576

NOTICE OF APPLICATION FOR WITHDRAWAL OF APPLICATION FOR LICENSE (MAJOR)

(June 5, 1974)

Public notice is hereby given that an application was filed on December 27, 1973, under the Federal Power Act (16 U.S.C. §791a - 825r), by the Connecticut Light and Power Company (correspondence to: Edwin L. Johnson, Vice-President, The Connecticut Light and Power Company, P.O. Box 2010, Hartford, Connecticut 06101 and William H. Cuddy, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103) for withdrawal of the application for license filed February 28, 1966, for its constructed Shepaug Project No. 2576 which is located on the Housatonic and Shepaug Rivers near New Milford, Southbury, Newtown, Roxbury Falls, Brookfield, and Bridgewater in the counties of Fairfield, New Haven, and Litchfield, Connecticut.

The request for permission to withdraw the application for license is based on the contention that the Federal Power Commission (Commission) does not have jurisdiction over the project and, therefore, cannot require its licensing. Applicant points to the Commission's Order of December 22, 1952, which declared that "the interests of interstate or foreign commerce would not be affected by the construction and operation of the proposed Shepaug development: ..." (see 11 FPC 1548). Applicant argues that there is not sufficient evidence to support a change in that determination and, in any event, that the Commission lacks authority to make such a change.

The constructed Shepaug Project consists of: (1) a concrete gravity dam 147 feet high and 1,412 feet long consisting of three sections comprising an ogee spillway 293 feet long topped by five taintor gates each measuring 35x28 feet and two bays of flashboards each measuring 35x23 feet, an intake section about 100 feet long with a 25 foot steel penstock 77 feet long, and flanking non-flow sections about 268 feet long at the south bank and 751 feet long at the north bank; (2) a reservoir, Lake Lillinonah, at elevation 198.3 feet U. S. G. S. datum, about 13 miles long with a surface area of 1,870 acres and a total capacity of 74,000 acre-feet with a 3-foot drawdown of 5,400 acre-feet; (3) a brick powerhouse with a vertical generating unit rated at 37,200 kw; (4) a switchyard with out-door transformer; and (5) appurtenant facilities.

DC-12

Any person desiring to be heard or to make protest with reference to said application should on or before July 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb

Secretary

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

The Connecticut Light and Power Company) Project No. 2646

NOTICE OF APPLICATION FOR WITHDRAWAL OF APPLICATION FOR LICENSE (MAJOR)

(June 5, 1974)

Public notice is hereby given that an application was filed on December 27, 1973, under the Federal Power Act (16 U.S.C. §791a - 825r), by the Connecticut Light and Power Company (correspondence to: Edwin L. Johnson, Vice-President, the Connecticut Light and Power Company, P. O. Box 2010, Hartford, Connecticut 06101 and William H. Cuddy, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103) for withdrawal of the application for license filed April 28, 1967, for its constructed Stevenson Project No. 2646 which is located on the Housatonic River in the counties of New Haven and Fairfield, Connecticut.

The request for approval to withdraw the application for license is based on a decision of the United States Court of Appeals for the Second Circuit, Farmington River Power Company v. Federal Power Commission, 455 F. 2d 86 (2d Cir. 1972). Applicant argues that the decision makes the Commission's jurisdiction over the project questionable.

The constructed Stevenson Project consists of: (1) a concrete gravity dam 1,250 feet long and 124 feet high, supporting Connecticut State Highway Route No. 34, with a 630-foot overflow spillway section, topped by flashboards 3 feet high, a gated overflow spillway, a skimming gate section, a power intake section, and three non-overflow sections; (2) a reservoir known as Lake Zoar 27 miles in length with a surface area of 1,063 acres, a total storage capacity of 26,900 acre-feet, and a usable storage capacity of 5,038 acre-feet with a drawdown of five feet below the

normal water surface elevation of 101.3 feet (U.S.G.S. datum); (3) an indoor powerhouse integral with the dam containing four generating units with a total capacity of 30,500 kw; and (4) all other facilities and interests appurtenant to the operation of the project.

Any person desiring to be heard or to make protest with reference to said application should on or before July 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb
Secretary

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: John N. Nassikas, Chairman;
Albert B. Brooke, Jr., Rush Moody, Jr.,
and Don S. Smith.

Connecticut Light and Power Company) Project Nos. 2576,
2604, 2632, 2646

ORDER PROVIDING FOR PRE-HEARING CONFERENCE

(Issued June 25, 1974)

Connecticut Light and Power Company (Applicant) has pending four separate applications for license concerning four constructed hydroelectric projects located on the Housatonic River in the State of Connecticut. The applications were filed during a 15-month period in 1966 and 1967. Applicant questions Commission jurisdiction over the four projects and has formally requested permission to withdraw the applications for license.

Applicant filed an application on February 28, 1966, for license for constructed Shepaug Project No. 2576. Notice of the application was issued setting August 2, 1966, as the last date for protests and petitions to intervene. No petitions to intervene or protests were received.

Applicant filed an application on July 1, 1966, for license for constructed Bulls Bridge Project No. 2604. Notice of the application was issued setting November 30, 1966, as the last date for protests and petitions to intervene. No petitions to intervene or protests were received.

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Applicant filed an application on December 29, 1966, for license for constructed Rocky River Project No. 2632. Notice of the application was issued setting August 20, 1968, as the last date for protests and petitions to intervene. The Public Utilities Commission of the State of Connecticut filed its notice of intervention on July 31, 1968. The Candlewood Lake Authority filed its petition to intervene on May 30, 1972. The Commission granted its intervention in an Order issued April 29, 1974. Candlewood Lake Defense Associates filed a petition to intervene on August 8, 1973, and the Town of New Fairfield filed its petition to intervene on August 13, 1973. Both these interventions were granted by a Commission Order issued on December 10, 1973.

Applicant filed an application on April 28, 1967, for license for constructed Stevenson Project No. 2646. Notice of the application was issued setting October 19, 1973, as the last date for protests and petitions to intervene. No petitions to intervene or protests have been received.

The question of jurisdiction as to Project No. 2576, which was constructed after 1935, was raised by Applicant in its application for withdrawal of application for license filed on December 27, 1973. As the basis for its application for withdrawal, Applicant points to the Commission's Order of December 24, 1952, which declared that "the interests of interstate or foreign commerce would not be affected by the construction and operation of the proposed Shepaug development: ..." (see 11 FPC 1548). Applicant argues that there is not sufficient evidence to support a change in that determination and, in any event, that the Commission lacks authority to make such a change.

The question of jurisdiction as to Project Nos. 2604, 2632, and 2646, which were constructed before 1935, was raised by Applicant in its applications for withdrawal of application for

license filed on December 27, 1973. As the basis for its applications for withdrawal, Applicant argues that the decision in Farmington River Power Company v. Federal Power Commission, 455 F. 2d 86 (1972), makes the Commission's jurisdiction questionable.

Notices of each of the four applications for withdrawal of application for license were issued on June 5, 1974, with July 22, 1974, being set as the last date for protests and petitions to intervene. To date, no petitions to intervene or protests have been received.

A pre-hearing conference is set by this Order to bring the parties together to explore the facts concerning the question of Commission jurisdiction over Project Nos. 2576, 2604, 2632 and 2646. Public notice of the conference will be given. If the parties are able to agree on the facts bearing on jurisdiction, the Presiding Administrative Law Judge shall then require briefs and forward the question to the Commission with his initial decision on that question consistent with Sections 1.29 and 1.30 of the Rules of Practice and Procedure (18 CFR §§1.29 and 1.30). If there is disagreement on the issues of fact relating to jurisdiction, the Presiding Judge shall proceed to fix a hearing on that question without requiring the preparation and circulation of a staff draft environmental impact statement. Upon conclusion of the hearing on the question of jurisdiction, the Presiding Judge shall require briefs and forward the question to the Commission with his initial decision on that question in accordance with Sections 1.29 and 1.30 of the Rules of Practice and Procedure.

In the event that the ultimate decision of the Commission is that it has jurisdiction over the projects, schedules may then be set for hearing on all the other issues raised by the applications for license. Staff environmental impact statements, if required, will be prepared and circulated only after the threshold question of jurisdiction is resolved.

The Commission finds:

(1) It is appropriate and in the public interest to hold a pre-hearing conference as hereinafter provided on the question of Commission jurisdiction over constructed Project Nos. 2576, 2604, 2632, and 2646.

(2) No major action involving a significant impact on the environment is involved and no draft statement need be prepared until hearings are provided on the issues other than jurisdiction raised by the applications for license.

The Commission orders:

(A) A pre-hearing conference before an Administrative Law Judge shall be held at 10:00 A. M. on July 25, 1974, in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D. C. 20426, respecting the issue of jurisdiction of the Commission.

(B) If the Presiding Administrative Law Judge finds no disagreement on material fact bearing on the question of the Commission's jurisdiction, he shall provide a briefing schedule to be followed by an initial decision in accordance with Sections 1.29 and 1.30 of the Rules of Practice and Procedure.

(C) If the Presiding Administrative Law Judge finds that there is disagreement on facts bearing on jurisdiction, he shall schedule a hearing on the jurisdictional question to be followed by briefing and an initial decision in accordance with Sections 1.29 and 1.30 of the Rules of Practice and Procedure without requiring the preparation and circulation of an environmental impact statement.

By the Commission.

(S E A L)

Kenneth F. Plumb,
Secretary

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UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Connecticut Light and Power Company) Project Nos. 2576, 2604, 2632, 2646

NOTICE OF PREHEARING CONFERENCE

(July 1, 1974)

By order issued June 25, 1974, the Federal Power Commission directed that a prehearing conference before an Administrative Law Judge be held at 10:00 A.M. on July 25, 1974, in a hearing room of the Commission at 825 North Capitol Street, Washington, D.C., concerning the question of Commission jurisdiction over four constructed hydroelectic projects located on the Housatonic River in the State of Connecticut. The four are Shepaug Project No. 2576, Bulls Bridge Project No. 2604, Rocky River Project No. 2632, and Stevenson Project No. 2646.

Ap lications for license as to each project were filed by Connecticut Light and Power Company (Applicant). Commission jurisdiction over each was formally questioned by Applicant when it filed on December 27, 1973, four separate applications requesting permission to withdraw the applications for license. Public notice of the applications for license had been given earlier, and public notice of the applications for withdrawal was issued on June 5, 1974.

The prehearing conference on July 25, 1974, has been set to bring the parties together to explore the facts concerning the question of Commission jurisdiction over the four projects. If the parties are a to agree on the facts bearing on jurisdiction, the Presiding Ad trative Law Judge will then require briefs and forward the ques n to the Commission with his initial decision on that question. If there is disagreement on the issues of fact relating to jurisdiction, the Presiding Judge will proceed to fix a hearing on that question without requiring the preparation and circulation of a staff draft environmental impact statement. Upon conclusion of the hearing on the question of jurisdiction, in the event one is held, the Presiding Judge will require briefs and forward the question to the Commission with his initial decision on that question.

In the event that the ultimate decision of the Commission is that it has jurisdiction over the projects, schedules may then be set for hearing on all the other issues raised by the applications for license.

BEST COPY AVAILABLE

Staff environmental impact statements, if required, will be prepared and circulated only after the threshold question of jurisdiction is resolved.

Any petitioners to intervene in any of the above-captioned proceedings whose petitions may not have been acted upon by the Commission may participate in the prehearing conference pending formal action by the Commission in regard to their petitions to intervene. Intervenors in any of the above-captioned proceedings may participate in the prehearing conference without filing any further petitions.

Kenneth F. Plumb

Secretary

PHB

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL POWER COMMISSION

Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632, and 2646

MOTION TO REOPEN RECORD SOLELY FOR RECEIPT IN EVIDENCE OF EXHIBIT

At the hearing session of January 7, 1975, in the above-captioned joint jurisdictional proceeding involving four constructed hydroelectric projects on the Housatonic River in Connecticut, staff offered for receipt in evidence an exhibit of 2 pages tentatively identified as Exhibit CDH-22 ____. It was marked for identification by the presiding administrative law judge as Exhibit No. 42 but was not received in evidence, primarily because its original source, authorship, and age were not known.

The presiding judge made clear that while the exhibit was not received as of January 7, 1975, it could be offered again if substantiation for it were found (see, Tr. 760-2).

On January 13, 1975, staff received several pages of materials with accompanying letter from Paula V. Holmes, Curator, Cornwall (Connecticut) Historical Society, which provide needed identification as to Exhibit No. 42. They make clear that it is a photo copy of part of a memorandum written by Silas G. Patterson in 1912 and sent to the Reverend E. C. Starr. In addition, they demonstrate that the memorandum was originally sent to the Reverend Starr along with Mr. Patterson's hand-written transcription of part of a 1716 deed and that the script copy of the deed along with the memorandum and an accompanying letter by Mr. Patterson, also written in 1912, are part of the Cornwall Historical Society collection. Finally, the materials demonstrate that staff was mistaken when it previously characterized Exhibit No. 42 as "a photo copy of a handwritten copy of an unknown work" (see, e.g., Tr. 752, 754, 759, and 760).

In the belief that the record would be aided, staff moves that it be reopened solely for the receipt in evidence of an exhibit. Concurrently, and in the belief that it is both relevant and material to the record in this proceeding, staff moves the receipt in evidence of the accompanying exhibit, tentatively identified as Exhibit CDH-22-A _____, an exhibit of 7 pages, the last 6 of which are photo copies of the materials received by staff on January 13, 1975. In addition, staff asks that the accompanying exhibit be marked for identification and received as Exhibit No. 42-A, effectively superseding Exhibit No. 42.

Staff makes this motion at this time, in compliance with the terms of Section 1.33 of the Commission's Rules of Practice and Procedure (18 CFR §1.33), so that the parties will have the opportunity to respond, should they desire to do so, prior to the filing of simultaneous, initial briefs.

Respectfully submitted,

Philip R. Telleen

Philip R. Telleen
Commission Staff Counsel

Washington, D.C.
January 23, 1975

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL POWER COMMISSION

The Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632, and 2646

RESPONSE TO STAFF'S MOTION TO REOPEN RECORD

Pursuant to Section 1.33(a)(2) of the Commission's Rules of Practice and Procedure, The Connecticut Light and Power Company, Petitioner in the above-entitled proceeding, submits this Response opposing the Staff's Motion to Reopen the Record for receipt in evidence of proposed Exhibit CDH-22A. The Petitioner submits that the proposed Exhibit fails to comply with Section 1.26 of the Federal Power Commission's Regulations, which provides, in part, that evidence shall be admissible only if it is relevant and material, and that evidence shall be excluded if it is "not of the kind which would affect reasonable and fair-minded men in the conduct of their daily affairs."

Proposed Exhibit CDH-22A is comprised of five separate parts, each which will be discussed separately below.

(1) Page 1 of the proposed Exhibit should be excluded since it is of no probative value and merely offers the Staff's description of the remaining pages of the proposed Exhibit.

(2) Page 2 of the proposed Exhibit is presumably included as the authentication required by Section 12.6(c) of the Rules of Practice and Procedure. If the Staff intends that the statements of the Cornwall Historical Society's Curator shall have any other significance in this proceeding, then this individual should have been called as a witness during the hearing.

(3) Page 3 of the proposed Exhibit purports to be a copy of a letter from Silas G. Patterson to Reverend E. C. Starr, dated May 8, 1912. This document has no probative value in itself and refers to the remaining portions of the proposed Exhibit as follows:

> "I send you so much of copy of the Weromaug deed as I copied. If I had had more time or known some one would have been interested I should have been pleased to have made an exact copy of the whole." [referring to pages 4 and 5].
>
> "I hope my memorandum on the other paper may not seem too much of an intrusion." [referring to pages 6 and 7.]"

(4) Pages 4 and 5 of the proposed Exhibit purport to consist of a handwritten copy of a portion of a 1716 deed. The copy was apparently prepared in 1912, based on another copy made by Mr. Patterson in 1905. This document was not submitted in evidence during the hearing and is not part of the two page exhibit marked for identification as Exhibit 42 as to which the Presiding Judge's ruling, on Transcript pages 760-762, pertains.

This 1912 copy apparently based on a 1905 copy is of a 1716 deed which appears to still be in existence and available to the Staff. The letter from the Curator of the Cornwall Historical Society to the Staff states that she has personally seen the original document at Hartford, Connecticut. Clearly, the material submitted by the Staff does not constitute the "best evidence" of the 1716 deed and the Staff has made no showing why that rule of evidence should not apply. The merit of the "best evidence" rule is made obvious by Mr. Patterson's own comment:

> "I send you so much of copy of the Weromaug deed as I copied. If I had had more time or known some one would have been interested I should have been pleased to have made an exact copy of the whole."

In addition, the only portions of this material which have any possible relevancy to this proceeding are already included as part of Exhibit 27 and the Staff has not shown any reason why repetition of this material is appropriate in the proposed Exhibit.

(5) Pages 6 and 7 of the proposed Exhibit are identified as a memorandum from Silas G. Patterson, a surveyor, to Reverend E. C. Starr. This material has been submitted by the Staff as evidence of the truth of the statements set forth in the memorandum. Mr. Patterson apparently worked as a surveyor in 1912 and he was not a historian nor was he a witness to the events which occurred nearly 200 years earlier. Mr. Patterson's memorandum does not refer to any source or authority for the statements contained therein and these statements may be based on nothing more than local folklore or Mr. Patterson's faulty recollection of such folklore.

The memorandum refers to cutting timber on the "Mast Swamp" tract for shipmasts and floating the masts down the Housatonic River. Although the explanation of the name "Mast Swamp" would appear to refer to activities which preceded use of that name in the 1716 deed, Mr. Patterson's memorandum fails to explain from what source this statement was obtained. The memorandum also fails to contain the type of substantiating information which might be of some use to the Commission in this proceeding. For example, how extensive was this alleged lumbering activity? During what period was it carried on? How were the mast logs floated over the falls in the Housatonic River?

Counsel for the Petitioner have been unable to ascertain any authority supporting the admission of a report to establish the truth of the statements contained therein, when the report was written 200 years after the purported events and contains no verification, substantiation or authentication. A recent U.S. Supreme Court decision illustrates the type of evidence which may properly be admitted into evidence in an administrative proceeding. In Richardson v. Perales, 402 U.S. 289 (1971), the disputed evidence was a written report made in 1966 by a licensed physician who had examined the particular patient and who set forth in the report various medical findings that were within his area of medical expertise. Although a form of hearsay evidence, the report was held admissible. The Perales type of document is in stark contrast to the Patterson memorandum, which is a document containing an unsubstantiated account of obscure events occuring long before the author was born.

The Petitioner submits that the Commission's effort in 1975 to ascertain whether the four hydro electric facilities are presently subject to its jurisdiction cannot be aided by a surveyor's 1912 memorandum describing events occurring 200 years earlier, since such undocumented and unsubstantiated "evidence" is both of dubious relevancy and materiality and fails to meet the Commission's standard that it must be the kind of evidence which would affect reasonable and fair-minded men in the conduct of their daily affairs.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY, Petitioner

By James R. McIntosh
Day, Berry & Howard
One Constitution Plaza
Hartford, Connecticut 06103
Its Attorney

Hartford, Connecticut

February 4, 1975

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632, and 2646

ORDER GRANTING MOTION TO REOPEN RECORD
AND
RECEIVE AN EXHIBIT

(February 25, 1975)

On January 23, 1975, Staff moved for a reopening of the record and receipt of an exhibit.

In the hearing held on January 7, 1975, Staff offered as an exhibit a document, found in the records of the Cornwall Historical Society, consisting of two pages and described as "a photo copy of a handwritten copy of an unknown work" (Tr. 752). This was marked for identification as Exhibit 42, but was rejected for want of a satisfactory showing of what it purported to be or its source (Tr. 752-761). However, I stated that I would be willing to reconsider my ruling if, by the date briefs would be due, a better showing were made (Tr. 761).

Staff has now submitted a seven-page document, of which page 6 is the text of the two-page document which was marked for identification as Exhibit 42. The newly presented document consists of a prefatory statement (page 1), a sworn certification by the Curator of the Cornwall Historical Society (page 2) as to the accuracy of a copy of the record of an Indian deed (pages 4 and 5), annexed to which are the surveyor's comments and narrative about the area conveyed and its vicinity (pages 6 and 7) and also a letter from the surveyor (page 3).

Staff moves that this document be received in evidence. There appears to be no objection.

The support for the receipt of this document is adequate and it should be received as a new exhibit, letting the rejection of Exhibit 42 stand.

Accordingly, it is ordered that the record be reopened solely for the admission of the above described seven-page document, which is received in evidence as Exhibit 42-A.

Israel Convisser
Presiding Administrative Law Judge

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL POWER COMMISSION

The Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632, 2646

MOTION TO WITHDRAW ORDER OF
PRESIDING ADMINISTRATIVE LAW JUDGE

On February 25, 1975 the Presiding Administrative Law Judge issued an ORDER GRANTING MOTION TO REOPEN RECORD AND RECEIVE AN EXHIBIT in the above-captioned proceeding (the Order). The Order states that "there appears to be no objection" to a Staff Motion that the record be reopened and certain documentary materials be received as an exhibit. It is obvious that the Presiding Administrative Law Judge did not receive the RESPONSE TO STAFF MOTION TO REOPEN RECORD (the Response), mailed by Counsel for The Connecticut Light and Power Company on February 4, 1975. The Response strenuously objected to the Staff's Motion to reopen the record and inclusion of specified documentary materials as an exhibit in the proceeding.

Attached hereto is a copy of the Response, dated February 4, 1974, and bearing the required Certificate of Service.

Counsel for The Connecticut Light and Power Company has been advised by Staff Counsel that he received a copy of CL&P's Response as a party on the Secretary's Service List. It therefore appears that the copies of the Response mailed to the Secretary of the Commission were either not received in that office or were subsequently mislaid or misdistributed.

Since the Order indicates that it is based in part on the fact that no party objected to the Staff Motion, it is requested that the Presiding Administrative Law Judge withdraw the Order and that a new order be issued following appropriate consideration of the Response by the Presiding Administrative Law Judge.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY, Petitioner

By James R. McIntosh
Day, Berry & Howard
One Constitution Plaza
Hartford, Connecticut 06103
Its Attorney

February 26, 1975

VERIFICATION

State of Connecticut)
ss Hartford
County of Hartford)

JAMES R. McINTOSH being first duly sworn, deposes and says that he is an attorney for The Connecticut Light and Power Company, and that as such he has signed the foregoing document, that he has read said document; that he is familiar with the contents thereof; and that the matters and things stated therein are true and correct to the best of his knowledge, information or belief.

James R. McIntosh

Subscribed and sworn to before me this 26th day of February, 1975.

Notary Public
My Commission Expires
March 31, 1976

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Section 1.7 of the Commission's Rules of Practice and Procedure.

Dated at Hartford, Connecticut, this 26th day of February, 1975.

James R. McIntosh

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632, and 2646

ORDER VACATING ORDER ISSUED FEBRUARY 25, 1975
AND ON
RECONSIDERATION GRANTING MOTION TO REOPEN RECORD
AND
RECEIVE AN EXHIBIT

(March 11, 1975)

On February 25, 1975, I granted Staff's motion of January 23, 1975, for the reopening of the record and receipt of an exhibit, to which I had received no response. My order stated that there appeared to be no objection. I have now before me a motion by Connecticut Light and Power Company (Petitioner) to withdraw my order. The motion states that a response to Staff's motion had been timely mailed by Petitioner and a copy of the response was attached. My order must therefore be vacated and Staff's motion reconsidered in light of Petitioner's opposition.

To recapitulate.

In the hearing held on January 7, 1975, Staff offered as an exhibit a document, found in the records of the Cornwall Historical Society, consisting of two pages and described as "a photo copy of a handwritten copy of an unknown work" (Tr. 752). This was marked for identification as Exhibit 42, but was rejected for want of a satisfactory showing of what it purported to be or its source (Tr. 752-761). However, I stated that I would be willing to reconsider my ruling if, by the date briefs would be due, a better showing were made (Tr. 761).

Staff has now submitted a seven-page document, of which page 6 is the text of the two-page document which was marked for identification as Exhibit 42. The newly presented document consists of a prefatory statement (p.1), a sworn certification by the Curator of the Cornwall Historical Society (p.2) as to the accuracy of a copy of the record of an Indian deed (pp.4 and 5), annexed to which are the comments and narrative about the area conveyed and its vicinity by a surveyor, who purported to have made the copy (pp.6 and 7) and also a letter from the surveyor (p.3).

The Indian deed is described as Weromaug's deed, recorded at one time in the office of the Secretary of State of Connecticut in Book 4 of Patents at page 36. The deed is dated June 19, 1716, and the conveyance purports to be from Weromaug and his chiefs to Benjamin Fayerweather and his associates.

The certification by the Curator of the Cornwall Historical Society is to the effect that she has personally seen the original deed in the Connecticut Historical Society and that the copy submitted has been copied accurately. Annexed to the copy of the deed is a letter purporting to be from Silas G. Patterson to Rev. E. C. Starr, dated May 8, 1912 (Exhibit, p.3). Also annexed is a narrative identifying areas and names referred to in the deed, signed by Silas G. Patterson and noted at the bottom to be "To Rev. E. C. Starr" (Exhibit, pp.6-7).

Petitioner opposes receipt of the exhibit on several grounds. The major ground is that the copy of the deed is not the best evidence, and there has been no showing why the best-evidence rule should not apply. Additionally, it is objected that the only relevant portions of the material submitted are already part of Exhibit 27 and no showing has been made to justify the repetition of this material. The Patterson memorandum (Exhibit, pp.6-7) is objected to because, Petitioner states, Patterson was a surveyor, not a historian, and he was not a witness to events which occurred 200 years earlier; the memorandum does not refer to any source or authority for its statements, which may be based on nothing more than local folklore or Patterson's faulty recollection of such folklore. Additionally, it is objected that the memorandum, which refers to cutting timber on the "Mast Swamp" and floating the logs down the Housatonic River, fails to explain the source of this statement and fails also to contain substantiating information, such as the extensiveness of the lumbering, the period during which it was carried on and how the logs were floated over the falls in the river. There are two further objections which will be dealt with shortly.

The first two objections noted above are somewhat inconsistent and the second weakens the first. Exhibit 27 is an excerpt from "A History of Cornwall, Connecticut" by Edward C. Starr, B.D., apparently the recipient of the Patterson letter and memorandum and the copy of the deed, all of which are part of the proposed exhibit. At page 3 of Exhibit 27 (p.34 of the book) the Weromaug deed is referred to and described in part. Thus, the proposed exhibit contains what apparently is, at least to some extent, the source of some of the statements in Exhibit 27. As such, the proposed exhibit, on the one hand, is clearly admissible as the evidence of what the author relied on, and, on the other, needs less support than might, in other circumstances, be required.

This proceeding is addressed to the question of the Commission's jurisdiction of several ~~licensed~~ projects on the Housatonic River. One of the conclusive issues is whether this river is or was a navigable stream. A relevant question is whether the river was used for the flotation of logs. In a search for events during a period of centuries, many of the protective evidentiary rules designed to prevent fraud, perjury, etc., are impossible to apply, others are necessarily relaxed. One cannot cross-examine or interrogate long-gone witnesses and hearsay evidence is frequently accepted on the reasonable assumption, as in this case, that the ancient papers and statements made in the remote past could not have been made for the purpose of influencing the outcome of the present proceeding.

Acceptance of these guidelines was basic to the admissibility of Professor Collier's testimony. He is an obviously capable historian who gave as his expert opinion that the Housatonic River was never a navigable stream at the points relevant to this inquiry. His expert opinion, it should be noted, however, is different from another type of expert opinion, such as, for example, as to what, in a rate case, would constitute a reasonable rate of return. The latter is a matter of judgment, not fact. Professor Collier, on the other hand, gave his opinion as to a fact. Witnesses to historical events are no longer living and material evidence thereof is largely gone or cannot readily be identified. Strict observance of exclusionary rules, applicable to proof of contemporary events would impede and even prevent the ascertainment of historical facts that might be vital to the establishment of present rights. Professor Collier labored prodigiously and examined a great mass of material. But what he examined was largely hearsay and his own testimony was hearsay several times removed. His sources included newspapers, sawmill account books, historical works, etc. He relied, inter alia, on an anonymous work (Tr. 140). He found it appropriate even to explain why he had not submitted reprints of historical sources, to say nothing of the originals themselves (Tr. 144). These things are noted to illustrate the basis of evidence which has been received in this proceeding. Against this background Petitioner's reliance on the best-evidence rule, like its other objections, is not well taken. Moreover, all the foregoing considerations apart, pages 3 to 7 of the proposed exhibit are copies of old papers in the place of their natural custody, i.e., a historical society, and the copies themselves would therefore appear to be admissible. See Wigmore on Evidence, Vol. II, § 2158.

Petitioner's third objection that Patterson was a surveyor, not a historian, etc., goes to the weight of the evidence, rather than its admissibility.

Of the two objections not recited above, one is conditional--if the Curator's certification is intended to have significance other than as an authentication, the Curator should have been called as a witness. I have no reason to believe that the certification has any purpose other than authentication.

Secondly, page one of the proposed exhibit is objected to as having no probative value. I agree with that characterization. But it is a description of the accompanying materials that is helpful and does not prejudice Petitioner. It was included in the exhibit admitted by my order of February 25, 1975, and, as a practical matter, it is simpler to leave the exhibit intact than to have it reconstituted.

For the foregoing reasons, it is ordered on reconsideration that the record be reopened solely for the admission of the within-described seven-page document, which is received in evidence as Exhibit 42-A.

Israel Convisser

Israel Convisser
Presiding Administrative Law Judge

bc

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Connecticut Light and Power Company) Project Nos. 2576, 2604, 2632, and 2646

ORDER AFFORDING OPPORTUNITY TO COMMENT
ON
OFFICIALLY NOTICED MATTER

(April 22, 1975)

I take official notice of the attached description of a canoe trip down the Housatonic River appearing in the Travel Section of the New York Times on Sunday, April 20, 1975.

The parties are afforded an opportunity to submit comments thereon, the comments to be received on or before May 12, 1975.

Israel Convisser
Presiding Administrative Law Judge

Attachment

COPIES TO ALL PARTIES

DC-23

On the Housatonic: Wilderness Canoeing

THE NEW YORK TIMES, SUNDAY, APRIL 20, 1975

By GEORGE GROH

It was a far cry from "Deliverance." The three of us on a two-day canoe trip confronted nothing more menacing than a power dam or two. But we were embarked on a pioneering voyage of sorts—discovering a kind of river wilderness amid the industrial reaches of southern Connecticut.

Our trip that late-spring weekend was along a 20-mile section of the Housatonic River—one of many rivers in the populous Northeast that offer the region's residents canoeing in their own backyard. I'm 52 and have been hooked on canoeing for years. My companions were Richard McKay and his brother-in-law, Harry Dammers, both in their late 20's. This was their first canoe trip.

Our starting point was not far from McKay's house in New Milford, Conn. A preliminary map check indicated no difficult rapids along our planned route, and the only apparent obstacle was the Shepaugh Dam; we felt confident we could find a way around it.

The trip was arranged on short notice and the food planning came down to what McKay and I could grab off the shelves as we hurried through a grocery store just before closing time on a Friday night. We came out with a can of vegetable shortening for cooking purposes, a box of instant pancake mix, a jar of syrup, some instant soup and coffee, a big can of pork and beans, two family-sized cans of tuna and several boxes of dried fruit.

I arbitrarily appointed McKay expedition chef, since he looks well nourished. I concluded later that his appearance reflects the culinary talents of his wife, but he complained that he wasn't working under ideal conditions. Chefs always complain about the working conditions.

The gear consisted of two small backpacking tents, three sleeping bags and a camp cooking set, plus such odds and ends as rain ponchos, thermos jugs, flashlights, a first-aid kit, a folding shovel and roll of tissue paper. We also carried a fishing rod apiece and Dammers brought his camera. Our canoe was a 17-foot two-seater which I'd outfitted with a third seat.

McKay's wife drove us to the river on a Saturday morning and we found a boat ramp near the highway bridge just off State Highway 133 at Brookfield Center. Ten minutes after launching and proceeding in a southerly direction, we rounded a bend in the river, lost sight of the bridge, and found ourselves in what seemed to be a wilderness setting. We moved slowly, advancing about the length of the canoe at every paddle stroke, and lazily scanned the banks. We passed a fishing boat every 20 minutes or so, and now and then spied a house on the high wooded bluffs that flanked the river. Otherwise the stream looped and twined through a countryside that appeared remarkably uninhabited.

•

We paddled along for two hours while the river grew progressively broader and more serene. Several times we let the canoe drift, checking the current, and found it almost imperceptible. That signaled the approach of the Shepaugh Dam. We rounded another bend and there it was, a big concrete structure rising at the end of what looked like a large, placid lake.

We asked a passing fisherman the easiest way around the dam. He shook his head: "No way. It's 200 feet high."

We reconnoitered ashore and came up against a stout chain link fence generously adorned with "No Trespassing" signs. We were nonplussed for a long moment before someone noticed that the gate was merely latched, not locked. And so we trespassed, climbing a last small rise to reach a roadway overlooking the dam. It turned out we had a choice of two ways around the dam: portaging down the left side bank or down the right side.

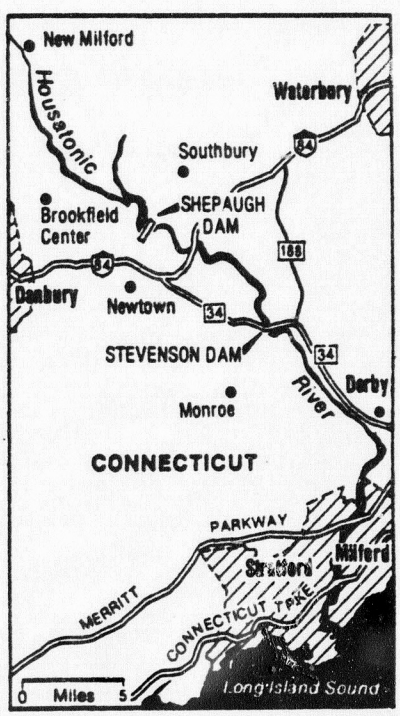
The left bank where we stood offered a shorter but much steeper route. There was just the problem of smuggling our canoe across the terrain in full view of the power house. A more promising route lay across the river. A service road there meandered down a long gradual slope, apparently meeting the river at a spot obscured by a clump of trees. It would take a little time but it looked easy.

We paddled over and portaged down, and it proved a good deal tougher than we expected. We ended up sliding down a small bluff of some 20 feet to reach the river.

Below the dam the river was reduced to a shallow stream only a few yards wide. As we paddled on, however, it quickly gathered size and strength. For a mile or so below the dam the river banks were closely packed with dwellings—some A-frame summer cottages, others old ramshackle structures. Still farther along we encountered a series of mansions, each large enough to house a country club, and each fronting on a hundred yards or more of water.

The noon lunch break came at a sandbar below a highway bridge. We stopped just long enough to stretch our legs and pass around a can of tuna and a box of dried fruit. By mid-afternoon we were canoeing another quiet wooded stretch and at about 4 o'clock we reached our first day's objective—Kettletown State Park, a public campground located at Lake Zoar, which is situated on a big bend in the river.

We pitched camp, stretched and returned to the canoe, this time to go fishing. About a mile downstream we found a likely spot, a place where a small brook came tumbling down the bluff to empty into the river. Here,



GEORGE GROH, a writer for a medical news magazine, lives in Larchmont, N.Y.

Harry Dammers

Up against an unexpected power dam, the author and companions portage around it.

we expected to find an intelligent bass or two hanging around, waiting for worms and insects that wash down from the banks. We landed one good-sized bass and picked up a few perch in action just tantalizing enough that we ignored the deepening shadows. Heading back was a race against darkness and when we reached camp we had already lost. Night comes fast on a wooded river.

Dammers went ashore to start a campfire while McKay and I paddled out to midstream to clean the fish by flashlight —a poor procedure. In fact the fish were somewhat imperfectly cleaned, and afterwards imperfectly cooked by the light of flickering embers, but the results were not too bad—if one didn't mind the occasional scales. The rest of the menu was pork and beans which we cooked hobo fashion, opening the can and setting it in the fire. That came out perfect.

We made a pass at cleaning things up afterwards but after a 14-hour day, we were all bone-tired. We gave the dishes a perfunctory rinse in the river, tidied the site by pulling a light rain tarp over the gear and stumbled off to our sleeping bags.

The next morning was damp and raw and we stumbled around some more until we had worked the stiffness out of our systems. There was also a problem about breakfast. We had transferred a portion of instant pancake ingredients to a waterproof plastic bag and had committed the mixing instructions to memory. We now recalled somewhat hazily that it was three cups of water to one cup of mix. (We found out later it was supposed to be three-fourths of a cup of water to one cup of mix.)

Our mix produced a fluid that looked like thin soup. The expedition chef nonetheless gave it a try. Bit by bit the excess water bubbled to the top and boiled away. We ultimately obtained pancakes of a rubbery wet-dough texture. All things considered they tasted pretty good. The syrup was perfect.

By the time we finished breakfast the morning sun had burned off the damp air, our stiffness was gone and we resumed the cruise in good spirits. The rest of the trip looked easy. In due course, however, a doubt appeared, quite literally, on the horizon. We were on another winding stretch and as we rounded the bends we glimpsed above the tree tops a distant structure that evidently spanned the stream. McKay and I agreed that it looked like a bridge. Dammers was more realistic. He said it looked like another dam.

It was another dam, one we had somehow overlooked during our map checking prior to the trip. We met yet another fisherman who assured us there was no way around the Stevenson Dam. Again we found the actual choices to be a long gradual route and a short, steep one. This time we tried short and steep. The first phase was a grassy slope that plunged at a precipitous angle. We tied a rope to the canoe and eased it down, one man hanging on from behind and serving as a drag anchor while the other two guided it along. It worked beautifully. The second phase was a more tricky descent over a series of large glacier boulders. We leapfrogged it, passing the canoe down hand-over-hand with one of us always going ahead to take up the next position.

At the dam's base there was a big rock shelf, studded with numerous no-fishing signs and occupied by some two dozen fishermen. Most of them scarcely looked up as we passed among them juggling our canoe and gear.

Just below the dam there was a small stretch of rapids of wading depth

and not too swift. We threaded through a rock-strewn passage easily enough, then relaxed our guard a moment too soon and hung up on a submerged rock we had failed to spot. It was lying just below the water line and we ran on to it and stuck there tightly, riding at a tippy angle. Prying gingerly with the paddles, we tried to push off the boulder without upsetting our dubious balance. When that failed to work, McKay inched his 200-odd pounds sternward until he was almost in my lap. The stern dipped to the edge of the waterline, the bow bobbed up, and after an uncertain moment we swung clear.

We followed a placid course down a river whose banks were studded with resort enterprises. Small marinas and rental cottages began to appear regularly. Our river had changed character again — and this time, so had we. We had enjoyed the unspoiled reaches, and had come seeking that, but what we were looking for now was a riverside cafe. We inquired of boaters and sunbathers and were told that our needs could be met at the Neptune Inn a mile or so down river. Our paddle rhythm had begun to lag but now it picked up briskly.

In short order we were sitting restfully in the inn's dining room, gazing through a big glass window at the river outside. It had grown hot and sweaty out there but it was cool inside. We ordered a round of beer and sandwiches and then another round of just beer.

●

A little reluctantly we pulled out the map and checked our position. We had reached a point near the intersection of Highways 184 and 34. Our second-day objective, the town of Derby, was still some five miles away. Thumbnail measurements on the map indicated that we had covered so far a ridiculously short straight-line distance of 14 to 15 miles. However, as the river winds, we had probably covered, oh, at least 18, perhaps even 20 miles.

We decided to call it a day. McKay phoned his wife and told her where to pick us up. Then we went outside and sprawled on the grass. From his duffle Dammers produced a pleasant surprise—a bottle of wine he had brought along and thoughtfully saved for this very moment. Mrs. McKay came promptly to pick us up, but not before we had finished the wine.

As we drove back, we chatted about our expedition, boasting a little about how tough the first dam had been, and about how smoothly we had traversed the second. Within minutes we were driving over the roadway of the second dam, and the boasting trailed off into somewhat embarrassed explanations. It didn't look all that imposing from the vantage point of a car window. McKay's wife reassured us. She insisted that even from a passing car, even with just a quick glance out the window, one could see right away that it was indeed a hell of a dam.

Every now and again the road brought us back to the river and we took pains to point out various details that lay hidden there by high banks and thick foliage. There was nothing really remarkable about the things we pointed out but, still, they were details unknown and unknowable to those who merely passed by in a car. We felt that it was our river—that stretch of it, anyway—because we had taken the trouble to live with it and learn it.

When we reached the McKay house I glanced at my watch to record a bemusing statistic. The trip back had been completed in 28 minutes. The trip out had occupied our interest and energies for the preceding 30 hours.

There's no question about it: highways are a quicker and more efficient means of travel. But you really can't grasp the size of those dams from a car window.

If You Go . . .

. . . canoe camping, the following publications are particularly useful:

Recreation Circular No. 7, "Adirondack Canoe Routes" describes more than 100 miles of wilderness canoe routes which wind through the Fulton lake chain in Herkimer, Hamilton and Franklin counties of northeastern New York. To obtain a free copy, write the New York State Conservation Department, State Campus, Albany, N. Y. 12226. The same agency mails free on request an information leaflet entitled "Canoe Trips." This lists and very briefly describes more than 40 other routes in New York State.

The "Connecticut River Guide" traces the 410-mile course of the Connecticut River, provides maps and furnishes precise information on such canoeing problems as access points, dams, portages, rapids and available campsites along the way. It is available ($4.50 a copy) from the Connecticut River Watershed Council, Inc., 125 Combs Road, Easthampton, Mass. 01027.

"Exploring the Little Rivers of New Jersey," by James and Margaret Cawley, published by Rutgers University Press, is a small classic, in print since 1942, and most recently updated in 1971. It describes more than a dozen river and canal routes in New Jersey while detailing the lore of the region. Sold mail order ($2.95) by Rutgers University Press, 30 College Ave., New Brunswick, N.J. 08903.

"Rent-A-Canoe Directory" lists more than 400 canoe rental liveries in the United States and Canada, and contains a handy reference list of books and pamphlets on canoeing. This pamphlet may be obtained free by writing Grumman Boats, Dept. SA, Marathon, N.Y. 13903.

New York has several large liveries which specialize in serving canoe campers. Their arrangements include a truck pick-up at the end of the trip. The leading services include:

Bob Landers Vacationland, Narrowsburg, N.Y. (phone: 914-252-7107). The route offered is a 30-mile, two-day run down the Delaware River from Callicoon, N.Y., to the Minisink Ford just below the confluence of the Delaware and Lackawaxen Rivers. The course includes very mild rapids suitable for beginners. The season begins April 12 and usually extends into early October, depending on weather.

Raquette Lake Marina, Raquette Lake, N.Y. (phone: 315-354-4361), and Rivette's Boat Livery, Old Forge, N.Y. (phone: 315-369-3123) in the Fulton lake chain area. The season begins "when the ice is out," usually about mid-April to early May. All liveries recommend reservations, particularly for holiday weekends.

Liveries can also be found by consulting the classified phone directories of riverfront towns. Rates vary according to locale and the services offered; the typical range is about $5 to $12 a day.

Two how-to books on canoeing I have found useful are "Canoeing" ($3.95) and "Wilderness Canoeing" ($4.95), both by John Malo. The first is available from Follett Publishing Co., 1010 West Washington Boulevard, Chicago, Ill. 60607, and the second from Collier Books, Macmillan Publishing Co., Inc., Order Department, Riverside, N.J. 08075.

For beginners a common sense precaution is to get in a little paddle-around practice on a quiet pond before attempting a trip. Flotation belts or vests should always be worn as a matter of course, and white water should not be attempted by novices. Large lakes and broad rivers should also be treated with some caution, as they can get rough in a hurry if the wind kicks up. The safe policy is to skirt the shore and run for cover if storm winds arise. —G. G.

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Connecticut Light and Power Company	) Docket Nos.	P-2576
	)	P-2604
	)	P-2632
	)	P-2646

INITIAL DECISION AS TO FEDERAL POWER COMMISSION JURISDICTION

(August 19, 1975)

APPEARANCES

William H. Cuddy, Americo R. Cinquegrana, James R. McIntosh, and Robert P. Knickerbocker for Connecticut Light and Power Company

Olga Boikess and Amy Scupi for Candlewood Lake Authority

Alan M. Kosloff for Commissioner of Environmental Protection

Frederick Benedict for Candlewood Lake Defense Associates

Philip R. Telleen for the Staff of the Federal Power Commission

CONVISSER, PRESIDING ADMINISTRATIVE LAW JUDGE:

At issue is the question of FPC jurisdiction of four projects located on the Housatonic River in the State of Connecticut. The projects are owned by the Connecticut Light and Power Company (CLP).

DC-34

I adopt and quote CLP's brief description of the river (Initial Brief, pp. 10-11):

> The Housatonic River has its source in western Massachusetts and enters Connecticut at Mile 83.8/ From the Massachusetts-Connecticut state line, the river flows southerly through Connecticut to Bulls Bridge (Mile 52.9) and thence southeasterly to the tidewater at the twin cities of Shelton and Derby at Mile 13.5. From Shelton and Derby, the tidal reach of the river extends southerly to its mouth, where the Housatonic River enters Long Island Sound at Stratford, Connecticut, approximately four miles east of the City of Bridgeport.
>
> 8/ The expression, "Mile ___", means that a particular point along the Housatonic River is ___ miles above the mouth of the river, according to the data shown in the profile of the river which is Exhibit H in Item by Reference G-3.

The farthest project from the mouth of the river (52.9 miles upstream) is Bulls Bridge (Project No. 2604). It is almost 10 miles north of Rocky River (Project No. 2632), which is 44.3 miles north of the mouth. Further south is Shepaug (Project No. 2576), 30 miles above the mouth. Finally, Stevenson (Project No. 2646) is 19.3 miles above the mouth. Rocky River is a seasonal pumped-storage hydroelectric facility, the other three projects are run-of-river hydroelectric facilities. Bulls Bridge was built in 1903 and acquired by CLP in 1917. Rocky River was completed in 1928, Shepaug in 1955, and Stevenson in 1920.

THE PROCEEDINGS

CLP, at the Commission's request, applied under protest for licenses for Bulls Bridge, Rocky River and Shepaug in 1966 and for Stevenson in 1967. On December 27, 1973, it filed notice of withdrawal of these applications, challenging the Commission's

jurisdiction. On June 25, 1974, the Commission ordered a pre-hearing conference. The order directed the Presiding Administrative Law Judge to hold a hearing, if necessary, to determine disputed questions of fact, if any, and prepare and forward to the Commission his initial decision on the question of jurisdiction,1/ all other questions, including whether environmental impact statements are required, to be reserved until settlement of the jurisdictional issue.

The pre-hearing conference was held July 25, 1974, before Presiding Administrative Law Judge William Beasley Harris. The case was assigned to me after Judge Harris transferred his judicial activities from the Federal Power Commission. Thereafter hearings were held on November 19, 20, 21, and 22, 1974 and January 7, 1975, on which date the hearings were concluded.

Briefs were submitted by all parties. Staff asserts jurisdiction and has the support of the Connecticut Department of Environmental Protection and Candlewood Lake Defense Associates. Opposed are CLP and Candlewood Lake Authority.

There are a number of issues of fact and law, all vigorously contested. They are dealt with seriatim below:

INTRODUCTION

The various contentions fall into three major categories: navigability of the river; effect of the projects on interstate commerce; effect of the Commission's 1952 findings with respect to the Shepaug project. Preliminarily, several observations are in order:

1. To pinpoint the issues here, assuming that the river is navigable, a license is required under the first part of Section 23(b) of the Federal Power Act, 16 U.S.C. 817; assuming non-navigability, a license is required if the project affects the interest of interstate or foreign commerce. Sections 4(e), 16 U.S.C. 797(e), and 4(g), 16 U.S.C. 797(g), are urged by Staff as a separate basis for jurisdiction. These are discussed infra.

1/ The order noted that "Applicant argues that the decision in Farmington River Power Company v. Federal Power Commission, 455 F. 2d 86 (1972), makes the Commission's jurisdiction questionable." But as is now evident, CLP's attack on FPC jurisdiction has become far broader, as no doubt has FPC's claimed basis for jurisdiction.

2. It is conceded (or, at least, not contested) by all parties that the Housatonic River is navigable from Long Island Sound to Shelton Dam, 13.5 miles upstream. A canal provides passage for craft up to three feet in draft around the dam and a pool behind this dam affords navigability to Otter Rock, which is 18.5 miles above the mouth (Tr. 96). What is left for determination here is whether the river from Otter Rock to Bulls Bridge, some 35 miles further north, is navigable.

3. CLP contends that evidence of events occurring prior to the formation of the United States is not relevant to the issue of navigability under Section 3(8) of the Federal Power Act. This section defines "navigable waters", insofar as here relevant, as "those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which . . . are used or suitable for use for the transportation of persons or property in interstate or foreign commerce . . .". CLP argues that the constitutional grant of power to Congress cannot relate to activities occurring prior to the formation of the United States;1/ that earlier navigation, assuming there was any, obviously was not in interstate commerce and therefore could not show navigability as defined.

The argument is not persuasive. It reads into Section 3(8) an evidentiary test for navigability that simply is not there. How navigability is ascertained is wholly separate from the substantive question. There is nothing in Section 3(8) that even remotely suggests that the movement that evidences navigability must itself be, or have been, in interstate commerce or that the portion of the water as to which navigability is sought to be established must cross state or national boundaries. Indeed, the stretch of the river, from Otter Rock to Bulls Bridge, with which this case is concerned lies wholly within the State of Connecticut. And jurisdiction does not depend on proof of navigability of more than the portion of the river from Bulls

1/ Actually, the logic of CLP's position would bar evidence of events prior to March 4, 1779, the date when the Constitution became effective.

Bridge to Long Island Sound. Sections 3(8) and 23(b) refer to "navigable waters," not "navigable rivers." A portion of a river may constitute navigable waters. Rochester Gas and Electric Corp. v. F.P.C., 344 F. 2d 594, 595 (2d Cir.), cert. denied, 382 U.S. 832 (1965).

If, since navigability below Otter Rock is not in issue, we postulate the existence of evidence of navigability solely from Bulls Bridge to Otter Rock, it verges on the absurd to say that this evidence is inadmissible because such evidence does not itself establish navigability in interstate commerce. It is likewise illogical, in my opinion, to assert that evidence of navigation, which, if it occurred today, would establish navigability in interstate commerce must be excluded because the navigation took place before the effective date of the commerce clause of the Constitution.

CLP's reliance on United States v. Appalachian Electric Power Co., 311 U.S. 376 (1940), in this connection is wholly misplaced. CLP cites the statement of the Court at p. 408 that "navigability to fix ownership of the river bed or riparian rights is determined as the cases just cited in the notes show, as of the formation of the Union . . ." (emphasis supplied). The cases cited are Shively v. Bowlby, 152 U.S. 1 (1894) and United States v. Utah, 283 U.S. 64 (1931). Shively said, at p. 26, that the States admitted to the Union after adoption of the Constitution have the same rights as the original States in the tide waters and the lands below the high water mark, within their respective jurisdictions. Utah said, at p. 75, "the title to the beds of rivers within Utah passed to that State when it was admitted to the Union, if the rivers were then navigable . . .". What the three cases make clear is that certain rights or interests, existing prior to the formation of, or admission to, the Union, were preserved. Obviously, ascertainment of these rights required cognizance and, if need be, proof, of the pre-existing situation.

In any event, this question is hardly open in light of the reliance of the Court in The Montello, 87 U.S. 430, 432, 440 (1874), inter alia, on the use of a river for the carriage of boats in the fur trade as far back as 1718 and earlier, in deciding the question of navigability.

4. As indicated above, navigability of the waters on which the projects are located is a major issue here. The term "navigable waters" is defined in Section 3(8) of the Federal Power Act:

> (8) "navigable waters" means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids, together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority.

Particular attention should be paid to the words "are used or suitable for use for the transportation of persons or property" (emphasis supplied). Evidence of extensive use, while it would set to rest any question of navigability, is, nevertheless, not a sine qua non of proof of suitability. Actual use may have occurred in the distance past and only fragmentary evidence may have survived the effacements of time. The types of goods requiring transportation earlier in history may have disappeared from areas within reach by a river, markets may have shifted, and quicker, more efficient or cheaper modes of transportation may have been developed. Appalachian, supra, 311 U.S. at 409. In these circumstances, ascertainment of relevant and material past events becomes as necessary as it is difficult.1/ This being the situation here, I found it proper and appropriate to receive, even handedly, I believe,

1/ See Appalachian, supra, at 417: "Use of a stream long abandoned by water commerce is difficult to prove by abundant evidence."

hearsay evidence and evidence, from other than original sources, as exceptions to the general rules that would otherwise be applicable.1/ Montana Power Co. v. F.P.C., 185 F. 2d 491, 497-498 (D.C. Cir. 1950).

Both the proponents and opponents of Commission jurisdiction labored under difficulties, the former because of the remoteness of the events on which they largely rely, the latter because, in the main, they were trying to prove a negative, i.e., that at least some of the claimed events did not in fact occur.

EVIDENCE AND FINDINGS

I. Navigability

Section 23(b) of the Act provides in part:

> It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along or in any of the navigable waters of the United States . . . except under and in accordance with the terms of a . . . license granted pursuant to this Act.2/

A. The Evidence

(1) Transportation by boat. The record is not wholly devoid of contemporary or recent events, nor of first-hand accounts, and it may be useful to begin with these.

CLP witness Lyle Thorp testified that he had been up and down the river in boats many times, particularly in the section from Falls Village to New Milford. He stated further that many

1/ In my Order of March 11, 1975, On Reconsideration Granting Motion to Reopen Record and Receive an Exhibit, I briefly discussed the question of admissibility of evidence in this case that would, in other circumstances, be inadmissible.

2/ Insofar as pre-1935 Projects or Project works are here involved, see the reference to Sections 9 and 10 of the Rivers and Harbors Act of 1899, infra, p. 31.

years ago he had designed and had had special boats built for stocking the larger rivers with trout and, presumably, at least some times, he used this type of boat on the Housatonic. Tr. 354. Even assuming that he confined himself to the area between Falls Village (mile 76) and New Milford (mile 43), he traversed the water between Bulls Bridge (mile 53) and Rocky River (mile 44). Mr. Benedict, of the Candelwood Lake Defense Association, testified that, in the summer of 1974, a canoe trip was made from Falls Village to Derby (Tr. 593). All four projects are included in this stretch of the river.

The Yale University Crew utilizes Lake Housatonic for training, racing, and other purposes from February 15 through June and from September through November every year; the racing shells and several boats, one 32 feet long, with a draft of 3 to 4 feet traverse the Lake from the boathouse, half a mile above Derby Dam, to a point 18 miles above the mouth of the Housatonic River (Tr. 508).

The New York Times of April 20, 1975, published an account of a trip by three men in a canoe from New Milford to the Stevenson Dam (mile 19).1/ I took official notice of this report in an order dated April 22, 1975, which afforded the parties an opportunity to comment.

A work entitled Boating Trips on New England Rivers, by Henry Parker Fellows, published in 1884 (Exh. 21), and subtitled An Autumn Cruise on the Housatonic from Pittsfield to the Sound (p. 3) describes a seven-day trip by the author and a companion in a skiff 2/ down the entire length of the river.

1/ The author, in a letter dated April 29, 1975, written at the request of Mr. Benedict of the Candelwood Lake Defense Association, made further comments, which I am neither putting into the record nor considering.

2/ I assume that this was a rowboat, although, by definition, it might have been somewhat larger than an ordinary rowboat suitable for two.

There were obstacles, difficulties and even accidents, and some portages. It is not irrelevant to note, however, that the boat, shipped by American Express from Boston to Pittsfield (p. 50), arrived "leak[ing] like a sieve" (p.7) and was then and there caulked, not with the usual oakum and oil-of-tar, which were not available, but with cotton batting (ibid.). The condition of the boat may have contributed to some of the difficulties experienced. At new Milford the author saw "a small paddlewheel steamer, not much larger than a rowboat . . ." (p. 31). Explaining the duration of the trip, he said, "the waters were almost unprecedently low and the days short" (p. 36). Nevertheless, he said, "the river from Pittsfield to Falls Village is navigable in a flat-bottomed boat at all times; and that one can indeed get along below Falls Village, too, although the greater the volume of water below that point the greater the pleasure of a trip" (p. 8).

One Frank P. Stowe, writing of the Housatonic River Valley, recalled, "[a]s a boy and a man I have paddled a canoe on the old river, rowed a row boat, propelled a motor boat and since the Stevenson Dam was built have driven an automobile about three miles over ice formed on Lake Zoar." Dwelling on his rafting experiences, he said, "[s]ometimes two rafts would be run in a day. It was cheap transportation when everything went O.K." His reminiscences evidently were published in a newspaper thought to be the New Haven Register. Exhibit 33.

CLP's witness, Professor Collier reported that he had found what he considered to be reliable references to boating between New Milford and Derby and he thought it "reasonable to assume that row boats, canoes and perhaps rafts were used at numerous points on the River to cross it and travel short distances north and south," although he entered the qualification that "it is far from certain that these boats carried either passengers or cargo" (Tr. 132, 381-383).

A work by Chard Powers Smith, entitled The Housatonic, Puritan River (Exh. 26), states that, "[i]n 1664, [a man named] Goodyear paddled or poled up thirty miles farther [than Derby] of mostly fast water and built a large post on what is still called Goodyear's Island, just below . . . modern New Milford" (p.3). This post was used for trade with Indians, specifically in furs, as noted in several records: Bacon's New Haven Records . . . Town, Court and Probate; History of Stratford and Bridgeport Connecticut, Samuel Orcutt, 1866; History of New Milford and Bridgewater, Connecticut, Orcutt (Exh. 19, App. B, pp. 5-8), see also Tr. 650-652, 664-665. A deed of this island,

expressly identified as "where Mr. Goodyear had a trading house" is on record (Exh. 19, App. B, p.7). A paper read on October 18, 1886, by Rev. William G. Andrews, D.D., entitled The Trading House on the Paugasset, recounts details of the island and the trading post, including their location, the Indians in the area, the fact that canoes and "boats large enough to be of much value in the fur trade" could reach what was for the merchants then the "head of navigation" at about New Milford, the canoes (with portage) being able to go many miles beyond. He also discussed the protests of the Dutch that the English had intruded into their territory (ibid., pp. 9-21). Notably, he said, "there is water enough even in our day to permit the use of a small steam-boat above the falls" (emphasis supplied) at New Milford (ibid., p. 18). The location of the Goodyear trading post on an island in the river is claimed to support the conclusion that the river was used to get the furs to market (Tr. 668).

The work by Chard Powers Smith, referred to above, tells that in April, 1673, "fifteen families complete with children and worldly goods, passed Paugasset with rafts and canoes, bound for the tributary Pomperaug sixteen miles further into the wilderness up the Great [Housatonic] River . . .". They passed the mouth of the Pomperaug and entered the Shepaug River at approximately mile 30 on the Housatonic (Exh. 26, p. 5). The author also noted that, after 1735, Indians began to move to Sherman and Kent from where they made annual migrations downriver to exercise their fishing rights at New Milford (p. 6).1/ Another author, Elwood R. Maunder, in Connecticut Woodlands, stated that Indians "used the river as a highway to the shores of the Sound" (Exh. 19, App. A, p. 1).

A work entitled "Two Centuries of New Milford Connecticut" tells of a newly-married couple journeying from the Stratford-Milford ferry, presumably to New Milford, their house furnishings "securely packed in a stout boat to be rowed and poled up the river this being, at that time [about 1738], the only means of conveying heavy articles to the settlements above" (Exh. 19, App. D, p. 1).

The case presented against the foregoing evidence rests on the physical characteristics of the river, i.e., the steepness of its gradient, its rocky condition, its shallowness at times and in certain areas, the existence of rapids and steep falls; also on the claimed unreliability of the evidence of actual

1/ Kent is above Bulls Bridge.

navigation and, where this evidence is unchallengeable, on its rarity and its claimed lack of significance.

CLP witness Lyle M. Thorpe, an aquatic biologist, stated his opinion, based on the physical characteristics of the river (steep gradients, shallows, presence of boulders), that it was unlikely that it "was used to transport people or local produce from point-to-point to any significant extent" (Tr. 115).

Dr. Christopher Collier, Professor of American History, had made an intensive search of historical materials (books, newspapers, records) and had consulted several scholars and local amateur historians; he asserted "with a high degree of certainty that the River, . . . was insignificant for transportation north of Derby. I dare say that no one in eighteenth or nineteenth-century Connecticut was making a living from the navigation of the Housatonic River north of Derby, nor is there any evidence that anyone was dependent on the River for transportation" (Tr. 132).

He had found evidence of the existence of an Indian fur-trading post on an island below Great Falls in New Milford but had found no evidence that goods were carried down the river from there to Derby and had found "no positive evidence that active trading did in fact develop at that place" (Tr. 150-151).

He concluded that "evidence shows that the river was tidal and navigable only from its mouth at Stratford to Derby, where the tidal estuary ended" (Tr. 132).

He criticized the case in support of navigability by boats on a variety of grounds including the assertions that the researchers were not historians, that their sources in many cases were secondary, that some were not reliable, that others had ulterior motivations, that there was ample evidence that the river was navigable only from its mouth to Derby (Tr. 132-133, 145). The unchallengeable first-hand evidence of actual traversal of the river was given little weight: for example, the occurrence, i.e., the trip by Henry Parker Fellows was said to have been unusual and difficult, encountering great obstacles and requiring many portages (Tr. 145-147).

(2) Flotation of Logs. Navigability, as is not disputed here, may be shown by evidence of commercial log flotation. See, e.g., Wisconsin Public Service Corp. v. F.P.C., 147 F. 2d 743 (7th Cir., 1945).

A work entitled History of the County of Berkshire, published in 1829, contains a section written by Reverend Chester Dewey, a scholar and scientist of considerable repute.1/ Referring to the Housatonic, he stated (Exh. 22, pp. 10-11):

> At the commencement of the rise of the waters in the spring, thousands of logs of pine and hemlock have been thrown into this river, and floated down its current from Great Barrington and Sheffield [Massachusetts] for years, over the falls at Canaan, to New Milford and Derby, where they have been converted into boards, plank, shingles, etc., for market in Connecticut and New York. The rise of the water has commonly carried them safely over the rocks in the stream. Their passage over the Falls has often been witnessed with amazement. This trade has carried a very great portion of the pine timber from the south part of the County. (Emphasis in original).

The Frank Stowe reminiscences, referred to above, recall that, in the 1890's, at the age of 17, he would guide a raft, "loaded either with hewn ties for the railroad or with cord wood" down the river, for which he would receive more than the going daily wage; his father also had engaged in rafting lumber, as evidently did others (Exh. 33).

Among the many uses and needs for lumber was that for ship-building some of which was done at Derby (Exh. 28, p. 2). Particularly valuable were tree trunks, large enough to be used as masts (Exh. 23, p. 5). Although many large trunks undoubtedly were destroyed or damaged by the rocks and other impediments

1/ See Dictionary of American Biography; National Cyclopaedia of American Biography, Exh. 34, pp. 2-5.

against which they were thrust by the rushing waters, the risk was made worth while by their value; additionally, "masting teams knew the rivers as well as they did the forests. The mast pines were guided around submerged rocks and drawn up on riverbanks to be dragged around waterfalls and rapids" (Tr. 626).

In an address commemorating the 100th anniversary of the first annual town meeting of the Town of Salisbury, Connecticut, delivered by Samuel Church on October 20, 1841, and published in 1842, the erection of a paper mill in 1783 "at the great falls of the Housatonic" was recalled. The speaker, noting that a saw mill had been erected there at about the same time, said, "[a]n extensive lumber business was prosecuted. Pine timber in large quantities, and of excellent quality, was by the spring freshets annually drifted down the river from the towns above." Exh. 37, p. 5.

By a deed, executed June 19, 1716, and recorded in the office of the Secretary of State of the State of Connecticut, an Indian Chief Weromaug conveyed to one, Benjamin Fayerweather, and his associates a tract of land located on the easterly side of the "Stratford Great [Housatonic] River," bounded on the south by New Milford Township and running north about 25 or 30 miles to "take in the whole of the Mast Swamp . . . together with the Island that is in the River (against the Mast Swamp so called) . . .". The deed expressly granted the right to the "use and benefit of the said Great River to pass and repass in at any time and at all times with Rafts trees Loogs [sic] or What Else so ever . . .". In May 1905 the deed was copied by one, Silas G. Patterson, who appended a note updating the location of the Weromaug tract. The note contained the following statement:

> The Mast Swamp extended south from here 2 or 3 miles and on this tract timber for ship masts was cut and floated down the river. A man was killed when felling one of these trees a little southeast of where the new school house stands.

The copy of the deed and the accompanying note were sent to Edward C. Starr, B.D., who referred to the conveyance in his A History of Cornwall, Connecticut, published in 1926. Exhibits 27, p. 3; 42A, pp. 4-7. In this history Starr stated that logs particularly timber for masts, were cut at the Mast Swamp and floated down the river (Exh. 19, App. C, pp. 13, 14).

On July 15, 1680, answering a questionnaire from England relating to the Colony of Connecticut, the Governor of the Colony reported in part, "14 . . . (2) For the materials for Shipping, here is good timber for Oak, Pine and Spruce for masts, oake boards and pine boards, and tarr and pitch, and hemp . . .". Accounting for the Colony's "own" vessels, the report further stated, "22 . . . In Stratford, 1 sloop, 12 tunn. In Milford, 1 Pinck, 80 tunn; 1 Bark, 12 tunn; 1 ketch, 50 tunn. In N. Haven, 1 Pinck, 60 tunn; 1 Sloop, 30 tunn; 1 Ketch, 24 tunns; 1 Sloop, 12 tunn; and 1 Sloop, 8 tunn . . .". Exh. 30, pp. 4, 7.

An enactment of the Connecticut General Assembly, toward the end of the 18th century, granted a group, who had petitioned for permission, authorization to clear a stretch of the Housatonic, from New Town (at about mile 20) to a point a little above the Great Falls at New Milford, of rocks and other obstructions to boating and to build locks at some of the places so as to make the river "navigable for Boats and Scows from two to eight and Ten Tons Burthen." The authorization was made subject to a proviso "that nothing in this Act be construed in the least Degree to affect the rafting of Timber and Lumber down the present Bed or Channel of said River and the Fishery thereof." Exh. 25, pp. 4, 5.

Another enactment, in May, 1807, provided that so much of an Act "regulating the floating of logs and other timber, shingles and staves down Connecticut river, be, and the same is hereby declared to extend to the floating of logs, lumber shingles and staves down the Ousatannick river." Exh. 38, p. 2.

In contradiction, CLP witness Thorpe, who had a familiarity with the river based on 30 years spent in various capacities with the Connecticut State Board of Fisheries and Game (Tr. 113), stated his opinion that the existence of steep gradients, sharp turns and rocks made the river unsuitable at any time for commercial navigation by boat or transport of timber (Tr. 116).

Professor Collier stated that masts suitable for use by the Royal Navy were 60 to 120 feet long and could not be floated down the river and he found no evidence that these or timbers for more modest masting or other lumbering operations were transported down this river (Tr. 138). He was familiar with Chester Dewey's statement, referred to above, that logs were floated down the river from points in Massachusetts to Connecticut communities. He pointed out that there was no

indication that Dewey had been an eyewitness to the event and speculated that the logs referred to had been accidentially swept down the river. Professor Collier gave great weight to what he termed the negative evidence, namely, the steep descent of the river, the falls and rocks; the absence of newspaper mention of logging on the river; no mention in the relevant literature of booms or chains that would be necessary to catch the drifting timber; the presence, in 20 sawmill account books he examined, of only a single entry referring to two logs taken from the river, suggesting the rarity of the event; and the numerous other entries in this ledger and others to overland carriage of timber. Tr. 138-141.

(3) Improvability. Several plans for the improvement of the Housatonic were made. One, approved by the Connecticut legislature in 1761, authorized a lottery to raise funds to clear the Housatonic from the Massachusetts line to Derby (Exh. 25, p. 4, n. 29). Another, approved by the Connecticut General Assembly some time between 1793 and 1796, is referred to above. The plan involved removing obstructions and building locks in the river between New Town and New Milford (Exh. 25, pp. 3-4). A third was evidenced by a resolution of the Town of Cornwall, Connecticut, approving "the measure taken to improve the navigation of the Ousatonic River by a canal or otherwise as proposed . . . to the Hon. General Assembly of the State of Connecticut . . ." in 1822(Exh. 39). As it happened, none of these plans was carried out.

(4) Further negative evidence. CLP points out that none of the studies by the Army Corps of Engineers (Items by Reference B and C), as well as prior reports, "suggests that the Housatonic River is now or was ever navigable above Otter Rock . . ., indeed, "308 Report" (Item B) states that Otter Rock was and is the head of navigation (CLP Initial Brief, pp. 12-13). Additionally, reliance is placed on the absence from the Department of the Army's List of Bridges Over the Navigable Waters of the United States (1948ed., revised to July 1, 1941; Item by Reference D) of any of the Housatonic River bridges above Derby; also noted is the failure of the Government to bring proceedings with respect to the Bulls Bridge, Rocky River or Stevenson Project under the Rivers and Harbors Appropriation Act of 1899, which prohibited construction of a dam on navigable waters, or on non-navigible waters if the project had an effect on navigable portions, without prior approval of the Army Chief of Engineers and the Secretary of the Army (CLP Initial Brief pp. 14-15).

B. Findings

A hydroelectric project is subject to FPC jurisdiction if it is located on waters that are or were "navigable," as that term is defined by Section 3(8) of the Federal Power Act. Thus, on the one hand, if the body of water was "used or suitable" for the transportation of persons or property in interstate commerce, jurisdiction lies, even though the type of commerce for which it was once used or suitable no longer exists or though physical changes have occurred that have rendered its further use impossible or have destroyed its suitability. See Rochester Gas, supra, 344 F. 2d at 596.

Over the centuries physical changes in lands and waters are effected by nature; waters more or less passable sometimes become more or less so. But "[w]hen once found to be navigable, a waterway remains so." Appalachian, supra, 311 U.S. at 408.

The purpose of the present proceeding, therefore, is to attempt to determine both the present and past uses and suitability of the Housatonic downstream from the site of the Bulls Bridge dam for transportation in interstate commerce.

Navigability, as defined in Section 3(8), may exist "notwithstanding interruptions between the navigable parts . . . by falls, shallows, or rapids compelling land carriage." This definition has impact here in two significant respects. CLP witness Collier testified to statements in historical sources that the Housatonic was not navigable upstream from Derby or a few miles beyond (Tr. 132-133, 429). What his testimony or any other part of the record fails to disclose, however, is the sense in which his sources used the term navigability. It is not unreasonable to say that a river is not navigable, in a commonly accepted meaning of the term, if one cannot traverse it from one point to another without portage. There is nothing in the record to indicate that Professor Collier's sources used navigability in any other sense. On the contrary, his named sources are early 19th century works, all antedating the Federal Water Power Act (1920), some by as much as a century (Tr. 133).1/ Indeed, citing "Gazeteers and Geographies, each of which refers to the head of navigation as being at a certain point ranging from 12 to 16 miles up the river,"

1/ The Federal Water Power Act was incorporated into, and is now Part I of, the Federal Power Act.

Professor Collier stated that he "discovered when I got into this the law defines 'navigation' differently from the way geographers do" (Tr. 384).

The same fault weakens the persuasiveness of items by reference B, C, D, E, F, H, and I. They are official federal and other documents (e.g., reports of U.S. Corps of Engineers, etc.) that state or imply that the Housatonic is navigable only for a distance from its mouth varying from 12 to 16.5 miles.1/ In none of the items by reference is navigability defined, nor is there any suggestion that the term is used in the sense spelled out by Section 3(8). I find inconclusive the mere failure of the Attorney General to prosecute under, or otherwise seek to enforce, the Rivers and Harbors Appropriation Act of 1899, 33 U.S.C. 401, 406, which prohibited construction of a dam on navigable waters without prior approval of the Chief of Engineers and the Secretary of the Army. The possible reasons for such failure are too many to permit a judgment as to which was controlling.

On the other hand, Staff asserts that the Housatonic is navigable within the definition of Section 3(8), relying on evidence of boating in the fur trade and otherwise and of logging operations. CLP's case for non-navigability rests, inter alia, on the proposition that "a finding of navigability . . . must be supported by substantial evidence showing that commercial navigation or significant commercial logging operations has occurred . . . at the point where each project is located, or at least by substantial evidence that the Housatonic is susceptible to such use by practical improvements recommended to or authorized by Congress at the points in question" (initial brief, p. 4). This is not, in my opinion a correct statement.

1/ In any event, also see Appalachian, supra, 311 U.S. at 400, which found waters to be navigable, although the Chief of Engineers of the War Department had found otherwise. For details, see the case below, 107 F. 2d 769.

First, evidence of such use as demonstrates the usefulness of the waterway for commercial traffic is sufficient to show navigability. This was clearly stated in Appalachian, supra, 311 U.S. at 417:

> Nor is lack of commercial traffic a bar to a conclusion of navigability where personal or private use by boats demonstrates the availability of the stream for the simpler types of commercial navigation.

Second, CLP telescopes the specification in Section 3(8) of "streams . . . in their natural or improved condition" with the later provision "including . . . such other parts of streams as shall have been authorized by [or recommended to] Congress for improvement." By confusing these two quite different provisions CLP would make the unambiguously expressed "suitable for use" contingent on the unrelated reference to improvements authorized by or recommended to Congress. As Appalachian, at 407, 408, makes clear, evidence of amenability to improvement also may demonstrate usefulness for commercial navigation.

Nevertheless, it cannot be said that the evidence either pro or con is overwhelming. CLP has attempted to discredit the case in support of jurisdiction by questioning the reliability of the sources, focussing on reported navigational difficulties and arguing the negative implication in the paucity of positive evidence. Contending that the physical conditions of the river, such as its gradient 1/ and the existence of falls and shallows, precluded navigability, CLP assumed that, since some of the evidence was not first hand, it was unrealiable and probably mistaken; even an important primary source was thought to have been mistaken. In short, CLP's answer to the evidence that a number of events occurred is that they could not have.

1/ CLP (Initial Brief, p. 19) has misread Appalachian, supra, as saying that an 18 mile stretch of river with a gradient exceeding 4 feet/mile did not constitute "good water." Actually, the Court noted that there were drops of 8,9, and one of even 11-1/2 feet. The Court's exact words were "[b]etween these more precipitous sections are many miles of what is called 'good water,' with a gradual fall of 4 feet or less." 311 U.S. at 412.

It is appropriate therefore to begin the analysis of the evidence with the events which CLP does not challenge, however inconclusive it claims them to be: the boat trips reported by Lyle Thorp (Tr. 354), Mr. Benedict (Tr. 593) and the New York Times, the recounting by Henry Parker Fellows of a boating trip in or before the 1880's that he and a friend took in an oar-propelled skiff on the Housatonic from Pittsfield, Massachusetts, to Long Island Sound (Exh. 21); 1/ the reminiscences of Frank P. Stowe, who, in 1872 or 1873, at the age of two or three was brought to Southbury, Connecticut (mile 26), where his family settled. He told of paddling a canoe, rowing a rowboat, and propelling a motorboat on the river "[a]s a boy and as a man" and, at age 17, guiding a raft, loaded with railroad ties, or cord wood down the river. His father and uncle had also run rafts. Although the dates and precise areas were not specified, it is clear that the period included the 1890's and the rafting began in some area above Otter Rock (mile 18.5), how far above is not indicated.2/ Exh. 33.

1/ CLP attempted to depreciate the significance of the Fellows trip on the grounds that the trip was hazardous, the boat having capsized and that 21 portages were necessary (CLP Initial Brief, p. 25). But the boat capsized before reaching Kent (mile 61), which is considerably above where Bull Bridge dam now stands (mile 53). Downstream from Bull Bridge, in the area with which this proceeding is concerned, there were only two portages, one above and one below Lovers Leap, and another portage at Derby Dam (Exh. 21, pp. 32, 33, 35), within the area of conceded navigability.

2/ Mr. Stowe recalled how a raft that carried his father ran into an old bridge pier just above Otter Rock.

An additional source is the History of the County of Berkshire in which Chester Dewey described the annual logging: "thousands of logs of pine and hemlock, have been thrown into this river, and floated down its current . . . to New Milford and Derby, where they have been converted into boards, planks, shingles,etc., for market in Connecticut and New York" (Exh. 22, pp. 10-11, emphasis in original). CLP has questioned whether this statement was based on first-hand knowledge. Although this record supplies no categorical answer, it does afford some support for the reliability of the statement.

Dewey was a scientist of considerable repute (Exh. 34, pp. 2-3, 5). He was born in Sheffield (mile 92) and lived near the river for a time while working on his history (Tr. 401). It is reasonable to suppose that, trained in the scientific discipline, with its concern for exactitude and the recognition of the distinction between the known and the unknown or the speculative, he would exercise a high degree of care in both the form and substance of his statements of fact; this would particularly be the case in the preparation of a document intended for public dissemination and persual by scholars, among others. We do not know whether Dewey himself witnessed any of these log drives (he did not say) or learned of them from other sources. But his positive, unqualified statement strongly suggests that, if his information was not first hand, it came from a source that, to his scientific mind, appeared reliable. He was, after all, obviously not reporting ancient events. He said logs "have been thrown . . . and floated," they "have been converted," the "rise of the water has commonly carried them safely" and their "passage over the falls has often been witnessed" (my emphasis). In good usage the present perfect tense does not denote an action that terminated in the distant past; correctly used, it refers to a just-completed or recently-completed event, and we must assume that Dewey was familiar with proper usage. Therefore, even if he had not himself been an eye-witness, there would be less reason to question his report than if he had described a long-past occurrence. Finally, his statement that the logs were floated down to New Milford (mile 43) and Derby, where they were converted into boards, etc., is consistent with, and to some extent corroborated by, Frank Stowe's recollection of rafting railroad ties and cord-wood down the river from somewhere above Otter Rock (mile 18.5) more than half a century or perhaps even a century later (Exh. 33).

I see no reason, therefore, to doubt the reliability of this respected scientist or the authenticity of his report.

The foregoing evidence of events that have actually occurred is particularly relevant to the CLP argument that there is serious doubt as to the possibility of commercial boating or log flotation by reason of the physical conditions of the river, the absence of newspaper or other reports and the fact that the sawmill ledgers examined by Professor Collier, with one insignificant exception, made no reference to flotation of logs.

The first point, the condition of the river, underlies the CLP rejection of all the evidence of navigability resting on secondary sources.1/ But the argument that something made a series of reported events impossible or improbable cannot stand in the face of the fact that the same something failed to prevent other similar events.2/

It cannot be denied that the absence of newspaper reportage would ordinarily be significant, since it seems reasonable to assume that log flotations would have excited newspaper comment and reports, and, if there had been commercial boating, one would expect that there would have been, at least, advertisements. On the other hand, had the Fellows trip (Exh. 21) been the rare and hazardous undertaking CLP claims it to be, that event also would be thought to have been a matter for reportage and comment. And some reference to the rafting of cutwood, reported by Stowe, should have been found in newspapers, and, perhaps if sawmill account books of his period had been examined, confirmatory entries might have been found. Consequently, the absence of such evidence loses much of its point.

Two factors have some bearing on the lack of this type of newspaper evidence. The newspapers that Professor Collier examined in his research were not complete runs; the gaps ran

1/ As to CLP's claim that log flotation was not possible because of the gradient of the river and the falls, see Dewey's "[t]heir [the logs'] passage over the Falls has often been witnessed with amazement." Exh. 22, p. 11. See also Public Utility District No. 1 of Snohomish County, Project No. 2214, 18 FPC 737, 738 (1957), . . . logs were floated or rafted [a distance of six miles] . . . Some logs went over Snoqualmie Falls, while others were portaged around the Falls and put back into the river . . .".

2/ Similarly, the attempt to cast doubt on the reports of log flotation by the failure to find evidence of booms is blunted by Frank Stowe's "[w]e strung booms across the river . . ." Exh. 33).

from one day's copy to a run of copies for as much as a year and a half (Tr. 388). Additionally, as Professor Collier noted, from Massachusetts "all the way down to New Milford at the south, the dominant--almost exclusive--trade route was westerly. It was the Hudson River, not the Housatonic, that drew all the trade in the region" (Tr. 135-137). The focus of public, and therefore newspaper, interest may have been westward, and that, together with the fact that only limited finances and news-transmitting facilities were available to the newspapers at the time may explain, at least in part, the absence of the newspaper reportage that might otherwise be expected to have been found.

Beyond the first-hand evidence there is also a considerable quantity of secondary evidence as to both the use and usefulness of the Housatonic River for transportation by boat, and for flotation of logs.

There is little reason to doubt the statements in the published works, referred to above, that boats plied the Housatonic in the fur trade with Indians. These statements, in any event, are supported by the existence, undeniable on this record, of a trading post on an island in the river at or near New Milford. Additionally, there are sufficient reported trips by boats up and down the river to establish its past suitability for use in the limited commerce that was common in earlier times. Similarly the reports of logging by an observer and again by a participant are reinforced by references in publications, reservations in statutory enactments 1/ and the Indian (Weromaug) deed. Finally, the existence of a place known as "Mast Swamp," certainly inconclusive by itself, lends a measure of support in context.

This evidence must, in my judgment, prevail over the negative evidence; and I find that the Housatonic River, from the site of Bulls Bridge to Long Island Sound, was used and was and is suitable for use for the transportation of persons or property in interstate or foreign commerce.

1/ See Bellows Falls Hydro-Electric Corporation, 2 FPC 380, 382-383 (1941).

I do not base this finding on the proposals that were made, and in some cases legislatively approved, for the improvement of the river (Exh. 25, pp. 3-4; Exh. 39). These were neither recommended to, nor authorized by, Congress, as specified by Section 3(8). On the other hand, the proposals themselves do not constitute evidence of suitability for use in an "improved condition," even when legislatively authorized; the failure to carry any of them out might have been the result of their impracticality. Without an explanation of the reasons for the failure, the mere proposals themselves are not persuasive. Indeed, their multiplicity, without effectuation, argues against their practicality.

II. Effect on interstate or foreign commerce.

Section 23(b) of the Federal Power Act, 16 U.S.C. 817, provides in part:

> . . . Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this Act.

Relying on this provision, it is argued in support of jurisdiction that interstate and foreign commerce are affected by the projects (even assuming, arguendo, that the Housatonic, upstream from Derby, is non-navigible) in that discharges of water therefrom do and can affect the concededly navigable

downstream portion of the river and further in that electric power is generated by the projects as part of an interconnected interstate transmission system. An additional argument, made in reliance on this portion of section 23(b), is that Stevenson and Rocky River are subject to Commission jurisdiction because of the unauthorized construction of project works since August 26, 1935.1/

Here it should be noted that these are secondary or possibly fall-back positions, since the Commission has unquestioned jurisdiction on the basis of the navigability of the river from Bulls Bridge to Long Island Sound.

A. The Evidence

(1) Effect of discharge of Water by Projects. Staff witness Daniel Abramowitz testified that the Bulls Bridge, Rocky River, Shepaug and Stevenson projects in operation exert an effect on the admittedly navigable lower 18-1/2 miles of the river, and, moreover, all four projects are capable of even more profound effect, particularly if the discharges from all the projects should be "super added," i.e., synchronized so that the flow from the projects into the navigable waters would be continuous for an extended period (Tr. 511-520). CLP's witness Antonio Ferreira agreed that there was an effect from actual operation of the projects but insisted that the effect is not significant; the timing and duration of the projects' operation, dictated by considerations of economy and practicality, minimize the flow reaching the navigable portion. The same considerations of practicality and economy would prevent operations, including superadding, of the kind hypothesized by Mr. Abramowitz in his estimates of the potential effects of substantially increased discharges. Finally, Mr. Ferreira denied that there was any effect from the operations on the navigability of the lower river. Tr. 100-105.

1/ The claim of post-1935 construction is relevant to the extent to which the decision in the Farmington case, infra, p. 3, controls the question of jurisdiction under Section 23(b).

(2) Post-1935 Project Modifications. The uncontradicted evidence shows that post-1935 changes were made in the Stevenson and Rocky River Projects.1/ At Stevenson a generating unit was added which increased its capacity by 8,000 Kw, or over one third, and also increased the quantity of water it discharged (Tr. 94-95; Exh. 6). The work, completed in 1936, in connection with this addition consisted of the completion of the foundation and scroll case and installation of the turbine, generator, appurtenances and governor (Tr. 195-196). CLP asserted that the additional unit was planned, and powerhouse space, intake facilities and water passages were actually provided therefor, at the time of initial construction between 1917 and 1920, and nc structural modification of the project was required for the installation (Tr. 94-95).

The Rocky River modification (in 1952) essentially was a rewiring of two pump motors, which enabled them to be reversed so as to work as generators for the pumps working in reverse as turbines; this increased the maximum water discharge from 460 to 2,075 cubic feet per second and the generating capacity from 25,000 Kw to 32,000 Kw (Tr. 92, 200-201; Exh. 7). CLP described this modification as minor and stated that "the motors and pumps had the deliberate, inherent capability for this conversion. The motors were capable of being readily converted to generators and the inherent design of the pumps allowed relatively efficient conversion to use as turbines" (Tr. 97, 201).

Concededly, CLP made no declaration to the Commission of its intention to make the above-described modifications (Tr. 335-336).2/ If these modifications constitute the construction of project works, the holding in Farmington, discussed infra, is inapplicable.

(3) Electric power generation. CLP is part of an interstate electric transmission system; it delivers electric energy to, and receives electric energy from, points outside

1/ Post-1935 work was done at Bulls Bridge. CLP claims, without challenge, that this did not constitute project works. See Exh. 8. I agree.

2/ This declaration is required only under the portion of Section 23(b) relating to project works on non-navigable waters.

Connecticut (CLP Initial Brief, p. 53; Exhs. 45, 46). What is keenly contested is whether any of the power generated by any of the four projects here involved is transmitted beyond the Connecticut State line.1/

Staff witness Burnet E. Bragdon testified that the line terminals to the New York, Massachusetts and Rhode Island State lines are all connected to the four projects. The evidence was concentrated on the Southington, Frost Bridge and Norwalk Harbor terminals to the New York line. To Frost Bridge Stevenson is connected directly, Rocky River is connected through the Bunker Hill substation, Bulls Bridge through Rocky River, and Shepaug through Rocky River and Stevenson. The four projects are connected to Norwalk Harbor through the Triangle substation and to Southington through the Trap Falls and Devon substations. Mr. Bragdon stated his opinion, "based on the fact that it is not possible to say with precision what happens to the energy from any one generation source which is part of an interconnected system," and he concluded that "energy from the hydroelectric plants in this proceeding, commingled with energy from other sources, during certain times is transmitted from Connecticut to New York State via the Frost Bridge-New York State line and the Norwalk Harbor to Long Island interconnections." Tr. 779-C-779-E; Exhs. 46, 47.

CLP witness S. Hale Lull testified that the total capacity of the plants at the four projects is 115.7 megawatts and that they serve a portion of southwestern Connecticut in which the projected 1974 peak load was 714 megawatts and the minimum was 293 megawatts. A digital model of the CLP transmission system showed, he testified, that, postulating four different load and generating conditions, the flow of energy in each case was into the southwest area and that no energy from the projects flowed out of the area or out of the State. He explained that power flow follows the path of least impedance and, therefore, "the loads closest to the hydro facilities, being much larger than the total capacity of those facilities, would consume the energy generated, so that there would be no potential for that energy to be exported to more remote load areas." Tr. 79-81, Exhs. 1-4. He stated, in response to a question, that a portion of the power would flow over the branch of the circuit having the highest impedance "in getting from the generator to a load" (Tr. 160).

1/ Whether any power from outside the State reaches any of these projects was not shown or discussed.

B. Findings

(1) Dealing first with the effect of the Projects' water discharges, there can be no doubt that, as asserted by Staff, the discharge of water by the Projects affects the concededly navigable lower portion of the river. This, however, is not the issue. The emptying of a barrel of water into this part of the river would also have an effect. Nor is it the issue whether the depth of the water is affected. The question to be decided is whether the water discharged by the projects affects navigability downstream or, to use the terminology of Section 23(b), affects "the interests of interstate or foreign commerce." There is no evidence that navigation has in fact been affected or that navigability might be affected, even with superadding, a possibility that, in any event, I find to be ruled out on economic and practical grounds.

(2) We come next to the Stevenson and Rocky River Project modifications, neither of which involved maintenance or replacement. Each resulted in a substantial enlargement of generating capacity, by over a third in the case of Stevenson and by more than 25 percent in the case of Rocky River. The Stevenson increase was achieved by substantial foundation work and installations, which, to adapt the language of Section 23(b), constitutes the "contruct [ion of] . . . project works," as to which CLP should have filed a declaration of intention with the Commission. Puget Sound Power & Light Company, Project No. 2493, Order Issuing Major License (May 13, 1975), mimeo, p. 11.

On the other hand, the rewiring of the Rocky River pump motors, although also resulting in a substantial increase in generating capacity, did not, in my opinion, amount to construction of project works and, therefore, did not require a declaration of intention.

(3) On the question of electric power generation, Taum Sauk (F.P.C., v. Union Electric Co.), 381 U.S. 90 (1965), must be the starting point. This case held that, even on a non-navigable stream, a hydroelectric project affecting the interests of interstate commerce in electric energy, though not affecting down-stream navigability, was subject to FPC licensing jurisdiction.

But no court has said that mere participation in an interconnected interstate electric system, without more, establishes the transmission of electric energy to any point across state lines. The cases that have held that interstate transmission

had been shown turned on the acceptability of proof that one of the two points or areas involved received energy from a bus in which energy from the other point or area had been commingled with energy from other sources. Indiana & Michigan Electric Company v. F.P.C., 365 F. 2d 180 (7th Cir.), cert. denied, 385 U.S. 972 (1966); Arkansas Power & Light Company v. F.P.C., 368 F. 2d 376 (8th Cir., 1966); Public Service Co. of Indiana, Inc., v. F.P.C., 375 F. 2d 100 (7th Cir.), cert. denied, 387 U.S. 931 (1967). Evidence of such commingling is absent from this case. Again, no court has yet gone so far as to say, based on the electromagnetic unity of response, that the "cause and effect relationship in electric energy occurring throughout every generator and point" on an interconnected electric system "constitutes the interstate transmission of electric energy"1/ where some of the generators are in different states from some of the points, an argument noted but not decided in F.P.C., v. Florida Power & Light Co., 404 U.S. 453, 461-463 (1972).

However, the issue of jurisdiction here does not end with this. Florida Power and the commingling cases cited above were all decided under Part II of the Federal Power Act, which Section 201(b), 16 U.S.C. 824(b), makes applicable to the transmission and sale for resale of electric energy "in interstate commerce" (emphasis supplied).

On the other hand, Section 23(b) of Part I confers on the Commission jurisdiction of the construction of projects described therein if "the interests of interstate or foreign commerce would be affected" thereby (emphasis supplied).

The distinction between the underscored language in Parts I and II is significant and has been frequently noted. See Jersey Central Co., v. F.P.C., 319 U.S. 61 at 87-88 (dissenting opinion); Florida Power & Light Co. v. F.P.C., 430 F. 2d 1377, 1379 (5th Cir., 1970), reversed on other grounds, but noting (and not disapproving) the same distinction, F.P.C., v. Florida Power & Light Co., supra, 404 U.S. at 462.2/

1/ Cf. Indiana & Michigan, supra, 365 F. 2d at 183.

2/ Additionally, in Taum Sauk, supra, 381 U.S. at 107, the Court rejected the argument that Section 23(b) was limited to effects on interstate commerce by navigation, saying with equal relevance to the distinction between in interstate commerce and affecting interstate commerce, that "there is no evidence that the sponsors of the Act, ... intended a construction of interstate or foreign commerce narrower than their constitutional counterparts." The constitutional limit extends to effects on interstate commerce. Cone Bros. Contracting Co. v. Bricklayers, Masons, Plasterers, Marble and Cement Finishers Union No. 3, 263 F. 2d 297 (5th Cir.), cert. denied, 360 U.S. 904 (1959).

CLP is part of an interconnected interstate system, and the question is whether by reason of this, without more, the Projects' generation of electric energy affects the interests of interstate commerce. It is true that in Jersey Central, supra, 319 U.S. at 72, the Court said, "[m]ere connection determines nothing." But this statement was made in the context of Section 201(b), not 23(b). Also in Taum Sauk, supra, 381 U.S. at 110, n. 29, it was said, "[t]he project . . . without any interstate sales, may well have no effect on commerce among the States and thus be beyond the power of Congress under the Commerce Clause" (emphasis supplied). Although this case involved Section 23(b), the Court was using a hypothetical situation to explain why it was not anomalous for Congress to have made an exception of facilities generating for local use. The Court's "without any interstate sales," in my opinion, must have referred to the system rather than to the facility alone. See Connecticut Light & Power Co., v. F.P.C., 324 U.S. 515, 529-530 (1945), "[t]echnology of the business is such that if any part of a supply of electric energy comes from outside of a state it is, or may be, present in every connected distribution facility. Every facility from generator to the appliance for consumption may thus be called one for transmitting such interstate power . . .. It has never been questioned that technologically generation, transmission, distribution and consumption are so fused and interdependent that the whole enterprise is within the reach of the commerce power of Congress, either on the basis that it is, or that it affects interstate commerce, if at any point it crosses a state line." (Emphasis supplied).

Consequently, in a system with interstate sales and transmission, every generating facility affects interstate commerce: holding aside the question whether a specific generating facility supplies any out-of-state loads, if the system is exporting energy beyond state lines and that facility is not generating, other facilities must generate more, if it is generating, other facilities need generate less; if the system is importing energy and that facility is not generating, the system must import more, if the facility is generating, the system needs to import less (Tr. 166-167). As the Commission said in Opinion No. 483, 34 FPC 1513, 1517 (1965), ". . . generation from each source in the system contributes directly or indirectly, and to an ever varying extent, to the energy present in all parts of the system which are not isolated from out-of-state sources." This opinion was affirmed by the Seventh

Circuit in Public Service Co. of Indiana, supra, and the quoted statement was cited with approval, 375 F. 2d at 103, n. 6. The same language was used in Opinion No. 473, 34 FPC 747, 751 (1965) and was cited with approval in the affirmance by the Eighth Circuit in Arkansas Power & Light, supra, 368 F. 2d at 382. In Indiana & Michigan, supra, 365 F 2d at 183, the Court said, "[e]very change [in a generating source] affects every other generating unit connected with the network because they are interlocked electromagnetically." This was catastrophically demonstrated a number of years ago when difficulties in one system resulted in the overloading of interconnected systems and caused a power blackout in a vast interstate area in northeastern United States. See Nantahala Power & Light Co. v. F.P.C., 384 F. 2d 200, 204 (4th Cir., 1967). Similarly, as was noted in Florida Power & Light, supra, 404 U.S. at 457, "when a midwestern utility sustained a 580-megawatt generating loss, a regularly scheduled 8-megawatt FP&L contribution to the Florida Pool coincided with an 8-megawatt contribution from the pool to the ISG [Interconnected Systems Group] system." The Court went on to note, at 461-462, but without comment, the company's argument that the theory of electromagnetic unity of response "does not demonstrate that any FP&L power flows in interstate commerce, but only that it affects interstate commerce. Congress, it is argued, could have chosen [in Part II of the Act] to grant the FPC jurisdiction over activities affecting commerce, but it clearly did not do so" (emphasis in original).

Thus, all four projects affect the interests of interstate commerce within the meaning of Section 23(b). But this would afford a separate ground for FPC jurisdiction, apart from the navigability of the portion of the Housatonic here involved, only in the case of Shepaug, built in 1955 and Stevenson, where construction of project works took place after 1935. The other two projects were built prior to 1935, the year in which Section 23(b) was amended. Farmington River Power Co. v. F.P.C., 455 F. 2d 86 (2d Cir., 1972), held that, in its earlier form, this section permitted, but did not require, a declaration of intention to construct a project in non-navigable waters and that the 1935 amendment, making it mandatory, was not retroactive.1/

1/ Staff urges that Sections 4(e) and 4(g), 16 U.S.C. 797(e) and (g), afford a separate ground of jurisdiction. But the Court in Farmington held that Section 4(e) authorized the Commission to issue licenses, required by the first part of Section 23(b), for the construction, operation and maintenance of dams on navigable waters, and that Section 4(g), added in 1935, "was only designed to permit the Commission to proceed on its own, and was not a general delegation of authority to require licenses apart from other statutory standards." 455 F. 2d at 91. Thus Section 4(g) did not retroactively authorize the Commission to make mandatory that which, prior to 1935, the latter part of Section 23(b) had made permissive.

To repeat, Farmington, however, does not affect the issue of effect on interstate commerce under the latter part of Section 23(b) as to either post-1935 Shepaug or Stevenson or the issue of navigability as to any of the four projects. Farmington, as noted, dealt with Section 23 of the Federal Water Power Act of 1920, (now the Federal Power Act) only as it applied to projects on non-navigable waters. But Sections 9 and 10 of the Rivers and Harbors Act of 1899, which was in effect in 1920, made it unlawful to construct a dam on navigable waters without the consent or authorization of Congress. The Water Power Act, supra, created the Federal Power Commission to which the authority to license such dams was transferred. See U.S. v. Appalachian Electric Power Co., 107 F. 2d 769, 774 (4th Cir., 1939) reversed on its holding of non-navigability by Appalachian, supra.1/

III. The Commission's Earlier Holding re Shepaug

There remains the question of the effect of the Commission's finding in Electric Power Inc., 11 FPC 1548 (1952). There, a wholly owned subsidiary of CLP filed with the Commission a declaration of intention, under Section 23(b), to construct the Shepaug project. On December 22, 1952, the Commission found:

> (1) The construction and operation of the proposed Shepaug development will not affect any public lands or reservations of the United States.
>
> (2) The interests of interstate or foreign commerce would not be affected by the construction and operation of the proposed Shepaug development: Provided, however, that these findings shall not be construed as relating to any effects upon the interests of interstate or foreign Commerce which might be caused by any existing hydroelectric development located on the Housatonic River.

1/ Appalachian involved a pre-1935 project on waters that the Supreme Court held to be navigable. The company had filed a declaration of intention to construct the dam, a filing, which, as already pointed out, was permitted, but not required, with respect to non-navigable waters, by the Water Power Act of 1920. But the Supreme Court said, at 419, that its determination of navigability "eliminates from this case issues which may arise [under the Water Power Act] only where the river involved is non-navigable," citing the opinion below, 107 F. 2d at 793 et seq.

CLP bases two contentions on the second finding. The first is that it forecloses a finding that the operation of Shepaug affects downstream navigability. Absent a change in law or circumstance, which is not shown by this record, I agree. CLP, however, goes further, arguing that it logically flows from this finding that the operation of Rocky River and Bulls Bridge likewise cannot now be found to affect downstream navigability, since these projects are upstream from Shepaug through which the waters they discharge or release must pass. Although I think the Commission's express reservation that this finding did not apply to other projects bars this contention, the point is academic, since I have already found that there has been no satisfactory showing that the operation of any or all of the projects affects downstream navigability.

It is appropriate to note here that Shepaug is a post-1935 project and thus is not subject to the restrictive holdings of Farmington, supra. Since Taum Sauk, supra, decided in 1965, corrected the previously prevailing erroneous view that the effect-on-interstate-commerce provision of Section 23(b) referred only to effect on downstream navigability, there is no bar to now holding that Shepaug, through its generation of electric energy affects the interests of interstate commerce. Nantahala, supra, 384, F. 2d at 206. The same must be said for Stevenson where, as noted, project works were constructed after 1935.

CLP's second point is that Section 23(b) makes it unlawful to construct or maintain or operate an unlicensed project on navigable waters for the purpose of developing electric power, and that the Commission must have found, at least by implication, that the Housatonic was not navigable at or below the site of the Shepaug project, since it did not require Electric Power, Inc. to apply for a license. And, there having been no change in fact or law, the river cannot now be found to be navigable in interstate commerce at Shepaug, or at Rocky River of Bulls Bridge, which are upstream from it.

This conclusion is much too heavy a superstructure for so fragile a foundation. Section 23(b) requires a declaration of intention for the construction of a project on a non-navigable stream. This affords the Commission an opportunity to investigate and if it finds that the interests of interstate commerce will be affected, the project may not be constructed, maintained, or operated until a license has been applied for and received.

On the other hand, in the case of navigable waters, there is no provision for a declaration of intention: there is a categorical requirement that the project be licensed, even if its operation will have no effect on downstream navigability and the electric power generated will be for a completely isolated intrastate use, having no effect on the interests of interstate commerce.

The declaration of intention by Electric Power, Inc., obviously assumed that the Housatonic at or below the site of Shepaug was non-navigable. It does not appear and is unlikely that this assumption was challenged by Staff. It seems reasonable to conclude, therefore that, if the Commission considered the question of navigability at all, it merely accepted Electric Power's assumption.1/

But the Commission's actual express finding was limited to effect on interstate commerce and was further limited to the Shepaug project; and this cannot, in my opinion, be stretched into a finding of non-navigability without pushing the principle of collateral estoppel beyond reasonable limits.2/ It would result in holding that the mere implication of a finding of non-navigability as to Shepaug, from a failure to require it to be licensed, where the express finding was merely one of no effect

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1/ none of the parties here suggests that the Commission actually decided the question.

2/ So far as Shepaug alone is concerned, the issue is not conclusive, since the effect of its operation on interstate commerce in electric energy gives the Commission jurisdiction in any event. The question is more significant, however, in the case of upstream Rocky River and Bulls Bridge, which are pre-1935 projects and which, under Farmington, supra, cannot now be held to be subject to FPC jurisdiction except on grounds other than that they affect interstate commerce.

on interstate commerce, barred an investigation of navigability of the waters at and below its site.1/

CONCLUSION

The Housatonic River constitutes navigable waters, as defined in Section 3(8) of the Federal Power Act, and, for this reason and the others heretofore stated the Projects known as Bulls Bridge (No. 2604), Rocky River (No. 2632), Shepaug (No. 2576) and Stevenson (No. 2646), located at or in the Housatonic River and owned by Connecticut Light and Power Company, are subject to the jurisdiction of the Federal Power Commission.

/Israel Convisser

Israel Convisser
Presiding Administrative Law Judge

1/ Even if it could properly be said that there was an implied holding of non-navigability, it would apply only to impediments at, or downstream from, Shepaug, since impediments upstream obviously would not necessarily affect navigability at or below Shepaug. Moreover such an implied holding would still, without more, not constitute a bar to a later finding of navigability as to any part of the river. Although a river, once navigable, remains so for jurisdictional purposes, permanence does not characterize non-navigability either in fact or in law. Impediments to navigation are not everlasting; they may be removed by man or nature or both. A stream found once to be non-navigable may be found later to have become navigable. Appalachian, supra, 311 U.S. at 408. And the absence of any indication of the basis for a holding of non-navigability, or what the impediments were or where they were located, prevents the supposed implication, even assuming its soundness, from constituting a bar to a later finding of navigability.

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UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

Connecticut Light and Power Company) Project Nos. 2576, 2604, 2632 and 2646

ORDER AFFIRMING INITIAL DECISION

(Issued May 24, 1976)

This case involves four hydroelectric projects on the Housatonic River owned and operated by Connecticut Light and Power Company (CLP). These projects are Bulls Bridge located 52.9 miles upstream from the river mouth, Rocky River, 44.3 miles upstream, Shepaug, 30 miles upstream and Stevenson, 19.3 miles upstream. Rocky River is a seasonal pumped-storage facility and the others are run-of-the-river facilities. Bulls Bridge was built in 1903 and acquired by CLP in 1917. Rocky River was completed in 1928, Shepaug in 1955, and Stevenson in 1920. CLP applied for licenses under protest at the Commission's request for the first three of the projects in 1966 and for the last in 1967. On December 27, 1973, it filed notice of withdrawal of the applications, challenging the Commission's jurisdiction. On June 25, 1974, the Commission ordered a pre-hearing conference. The order directed the Administrative Law Judge to hold a hearing, if necessary, to determine disputed questions of fact and prepare and forward to the Commission his initial decision on the question of jurisdiction. Hearings were completed on January 7, 1975. Briefs in support of FPC jurisdiction were submitted by Staff, the Connecticut Department of Environmental Protection, and Candlewood Lake Defense Associates. Briefs in opposition were filed by CLP and Candlewood Lake Authority. On August 19, 1975, the Presiding Administrative Law Judge issued his initial decision finding that the Commission does have jurisdiction as to each of the projects.

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The Presiding Administrative Law Judge after reviewing all the evidence concluded that the projects are located on "navigable" waters within the meaning of Section 3(8) of the Federal Power Act, 16 U.S.C. 796(11); and that all the four projects affect the interest of interstate commerce within the meaning of Section 23(b) of the Act, 16 U.S.C.817. We conclude after review of the record that the Administrative Law Judge should be affirmed.

The Commission orders:

The findings and conclusions in the initial decision of the Presiding Administrative Law Judge issued in this proceeding on August 19, 1975, are affirmed and adopted.

By the Commission.

(S E A L)

Kenneth F. Plumb,
Secretary.

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL POWER COMMISSION

In the Matter of:

THE CONNECTICUT LIGHT AND POWER COMPANY	)	Project Nos. P-2576
	)	P-2604
	)	P-2632
	)	P-2646

APPLICATION FOR REHEARING

Pursuant to Section 313(a) of the Federal Power Act (the "Act") (16 U.S.C. §8521(a)) and Section 1.34 of the Commission's Rules of Practice and Procedure (18 CFR §1.34), The Connecticut Light and Power Company ("CL&P") hereby applies for a rehearing of the Commission's Order Affirming Initial Decision issued May 24, 1976 regarding Projects Nos. 2576, 2604, 2632, and 2646, to the extent that the order affirms and adopts the findings and conclusions of the Presiding Administrative Law Judge issued on August 19, 1975, that all four of the projects are subject to the jurisdiction of the Federal Power Commission because:

1) the four projects involved are located on "navigable" waters within the meaning of Section 3(8) of the Act, 16 U.S.C. 796(11);

2) all four of the projects affect the interest of interstate commerce within the meaning of Section 23(b) of the Act.

CL&P submits that the Commission has uncritically accepted an Initial Decision that is without sufficient factual basis and includes an unprecedented definition of "effect on interstate commerce," radically extending Commission jurisdiction.

INTRODUCTION

This proceeding is a consolidation of four proceedings involving CL&P and four hydroelectric projects owned by CL&P which are located on the Housatonic River in Connecticut: Project No. 2576 (Shepaug Project); Project No. 2604 (Bulls Bridge Project); Project No. 2632 (Rocky River Project); and Project No. 2646 (Stevenson Project).

The Commission's Staff asserted that these projects were under the jurisdiction of the Commission, and on February 28, 1966, CL&P filed for a license application for the Shepaug Project under protest, submitting briefs objecting to the Commission's jurisdiction. The basis for objection to the Commission's jurisdiction was the "Findings of the Commission," issued December 22, 1952 in Docket No. E-6437 which constituted a grant of Commission permission to construct the Shepaug Project. CL&P also filed license applications for the other three hydroelectric projects on the Housatonic River, on the following dates:

a) application for the Bulls Bridge Project was filed on July 1, 1966;

b) application for the Rocky River project was filed on December 29, 1966;

c) application for the Stevenson Project was filed on April 28, 1967.

Each application was filed by CL&P under protest and included a statement that the Commission was without jurisdiction over each project.

Subsequently, CL&P submitted to the Commission a letter and five exhibits, showing that the initial steps for the installation of the fourth generating unit at the Stevenson Project had commenced prior to August 26, 1935. In 1972, the United States Court of Appeals for the Second Circuit, in Farmington River Power Company v. Federal Power Commission, 455 F.2d 86 (2d Cir. 1972), held that pre-August 26, 1935 hydroelectric projects located on non-navigable waters are not subject to the jurisdiction of the Commission and are therefore

not required to be licensed.

Three of the projects involved in this proceeding, the Bulls Bridge, Rocky River and Stevenson Projects, were constructed prior to 1935. After the Farmington River decision, on December 27, 1973 CL&P filed a notice of withdrawal of the license applications for those three projects.

Notice of withdrawal of the Shepaug Project license application was also submitted by CL&P December 27, 1973. The basis for this notice was the lack of sufficient evidence to support a change in the Commission's Order of December 22, 1952, which had declared the Shepaug Project not subject to its licensing jurisdiction.

Subsequent to the filing of CL&P's notices of withdrawal, the Commission on June 5, 1974, issued notice of a public hearing in connection with each project to consider the issue of the withdrawal of each license application. Hearings were held on November 19-22, 1974, and January 7, 1975 before Presiding Administrative Law Judge Israel Convisser.

On August 19, 1975, the Presiding Administrative Law Judge issued an Initial Decision, finding that the Commission had jurisdiction over all four of the projects. CL&P filed exceptions to portions of the Initial Decision. On May 24, 1976, the Commission issued an order affirming and adopting the findings and conclusions of the Presiding Administrative Law Judge. The Commission order contained no discussion of any of the Presiding Judge's findings or conclusions, nor did it contain discussion of any of the issues presented by CL&P in its briefs to the Commission.

GROUNDS FOR REHEARING

I. THE COMMISSION ERRONEOUSLY ADOPTED THE FINDINGS OF THE INITIAL DECISION THAT THE STAFF AND INTERVENORS HAD SATISFIED THEIR BURDEN OF PROOF THAT THE COMMISSION HAD JURISDICTION OVER EACH OF THE FOUR CL&P PROJECTS.

Under Section 556(d) of the Federal Administrative Procedure Act, the Staff and the two Intervenors, DEP and Candlewood Lake Defense Associates, as the proponents of Commission jurisdiction, had the burden of proof to show that

each of the four CL&P hydroelectric facilities is subject to the Commission's jurisdiction. This assignment of the burden of proof has been recognized in various cases where the Staff has contended Commission jurisdiction existed over utilities that were formerly outside the scope of such jurisdiction. See, e.g., Arkansas Power & Light Company v. Federal Power Commission, 368 F.2d 376, 382 (8th Cir. 1966); Public Service Company of Indiana Inc. v. Federal Power Commission, 375 F.2d 100,104 (7th Cir. 1967); Florida Power & Light Company v. Federal Power Commission, 430 F.2d 1377, 1385 (5th Cir. 1970).

The Staff and the two Intervenors failed to meet their burden of proof in this proceeding, in that they failed to introduce substantial evidence upon which a finding that the Commission has jurisdiction could be based, for any of the four CL&P projects. The Commission's finding of navigability must be supported by evidence that is substantial. Rochester Gas and Electric Corp. v. Federal Power Commission, 344 F.2d 594, 596 (2d Cir. 1965). The Presiding Judge's finding that the Housatonic River is navigable is based on insubstantial evidence as discussed in detail below and the Commission's adoption of that finding is therefore erroneous.

The Initial Decision itself states, "...[I]t cannot be said that the evidence either pro or con is overwhelming." (Initial Decision, 18.) Any determination of navigability in this proceeding must be based on very slight and indirect evidence of navigation. Such a finding is contrary to the Congressional intent expressed in the substantial evidence standard stated in Section 313(b) of the Act (16 U.S.C. 8251(b)).

The substantial evidence sufficient to support a Commission finding of jurisdiction must be taken from the record as a whole. Universal Camera Corp. v. N.L.R.B., 340 U.S. 474, 488, 71 S.Ct. 456 (1950). The Commission should have taken into account not only that evidence introduced by the Staff and the Intervenors, but also that evidence introduced by CL&P which fairly detracts from the staff's evidence, Id. Only if the Staff's evidence, as discounted by CL&P's contradictory evidence, is substantial could it support a finding of Commission jurisdiction. The evidence supporting a finding of navigability is slight and indirect, while the contradictory evidence introduced by CL&P is substantial and could not be ignored by the Commission. The Commission has erroneously failed to recognize that the lack of substantial evidence on the record, as a whole, must result in a finding of no jurisdiction.

II. THE COMMISSION ERRONEOUSLY ADOPTED THE FINDING OF THE INITIAL DECISION THAT THE HOUSATONIC RIVER IS NAVIGABLE AT THE POINT OF EACH CL&P PROJECT.

If the four CL&P hydroelectric projects are located on portions of the Housatonic River which are determined upon the basis of substantial evidence to be navigable, then the Commission has jurisdiction over the projects, which must then be licensed under Section 23(b) of the Act. However, if these portions of the Housatonic River are non-navigable, the latter portion of Section 23(b), which applies only to hydroelectric projects constructed after August 26, 1935 (when this portion of Section 23(b) became effective) requires a license only if the projects affect the interests of interstate or foreign commerce. U.S.C. 817.

A river is "navigable waters", and hydroelectric projects thereon must be licensed by the Commission, if (1) the river presently is being used or is suitable for use for the transportation of persons or goods in interstate commerce, or (2) it has been so used or was suitable for such use in the past, or (3) it could be made suitable for such use in the future by reasonable improvements. Rochester Gas and Electric Corp. v. Federal Power Commission, supra. There is no substantial evidence in the record that the Housatonic River meets any of these tests and thus the Staff and the two Intervenors have failed to satisfy the necessary burden of proof.

Pre-Revolutionary War Evidence - The Commission has erroneously affirmed the findings of the Presiding Judge which relied in part on evidence of activity on the river in the pre-Revolutionary War period. Much of the information was second-hand and inconclusive. Even if the evidence of pre-Revolutionary activity were true, it would only establish the susceptibility of those portions of the River for commerce appropriate for the pre-Revolutionary period. However, such activities as Indian canoe trips would not have been considered commerce after 1776 when the area had become substantially more developed. Certainly those activities do not constitute substantial evidence of susceptibility of the Housatonic River for navigation in interstate commerce today. Fragmentary evidence of isolated non-commercial excursions does not constitute substantial evidence, especially in the face of the objective evidence of non-navigability put forth by CL&P, including the steep gradients and rocky character of the Housatonic River.

The Presiding Judge expressed an even more stringent test which he used in relying on this pre-Revolutionary evidence to support his decision: whether "evidence of navigation,...if

it occurred today, would establish navigability in interstate commerce." (Initial Decision, 5.) The fragmentary evidence of pre-Revolutionary War activity does not satisfy the Presiding Judge's own test. Evidence of isolated canoe trips under dangerous conditions, or of references to Indian trading posts near the river, cannot establish navigability in interstate commerce as we know it today.

The evidence of pre-Revolutionary War activity has no relevancy in this proceding and certainly cannot satisfy the substantial evidence test. If the Commission were to assert jurisdiction on the basis of pre-Revolutionary activities, such as scattered reports of Indian canoe trips, virtually no body of water, be it a small pond or intermittent stream, could be found which would not have such activities mentioned in some account, particularly in the New England area.

Logging Operations - The Initial Decision cited a few scattered and uncorroborated accounts of commercial logging operations on the Housatonic as evidence to support a finding of navigability. While navigability may be shown by evidence of commercial log flotation, see e.g., Wisconsin Public Service Corp. v. Federal Power Commission, 147 F.2d 743 (7th Cir. 1945), Public Service Company of New Hampshire, 27 F.P.C. 830, 833 (1962), such evidence must be substantial. Rochester Gas and Electric Corp. v. Federal Power Commission, supra. For example, in Montana Power Company v. Federal Power Commission, 185 F.2d 491 (D.C. Cir. 1950), the Commission's finding that a river was navigable was based on significant logging operations that satisfied three tests: (1) the logging was of a "substantial" nature; (2) the river was "extensively" used for logging; and (3) the logging was substantiated by "available records." The evidence in the record and cited by the Presiding Judge in his Initial Decision, as adopted by the Commission, fails to satisfy even one of the three Montana Power standards.

The evidence of commercial logging operations cited by the Presiding Judge clearly cannot constitute substantial evidence. One piece of evidence consists of an account by one Dewey written in 1829, that "thousands of logs" were thrown into the river and floated downstream. Yet there is no indication that Dewey witnessed the event. For corroboration, the Initial Decision referred to a newspaper version of the boyhood reminiscences of Frank Stowe of a log raft trip down the Housatonic River nearly sixty years after the Dewey story. In fact, Stowe's account details a very hazardous journey, and offers no basis for inferring the possibility of commercial logging operations.

The Initial Decision refers to shipbuilding at Derby, as indicating commercial logging activity. However, there is no evidence in the record that any logs for the ships came down

the Housatonic. The Presiding Judge thought it significant that a forest area near Cornwall was called "Mast Swamp," thereby indicating logs used for ship masts were cut there and floated down river. Such an inference is a very strained one to be drawn merely from a place name and a single reference in an ancient deed.

Evidence such as that relied on by the Presiding Judge, and adopted by the Commission, is not sufficient to establish navigability. In United States v. Rio Grande Dam & Irrigation Co., 174 U.S. 690 (1899), the Supreme Court found that "[t]he mere fact that logs, poles, and rafts are floated down a stream occasionally and in times of high water does not make it a navigable river." 174 U.S. at 698. Wisconsin Public Service Corp. v. Federal Power Commission, supra, found the Wisconsin River to be navigable because there was evidence of a "long, regular and commercially successful use of the stream for the transportation of logs and rafts." 147 F.2d at 748. Similarly, in State of Wisconsin v. Federal Power Commission, supra, the court upheld a finding of navigability based on substantial evidence of logging operations on the river for a period of 48 years. The evidence relied on by the Presiding Judge, to support his findings and adopted by the Commission, does not approach the substantial evidence relied on in these cases.

In addition, the record contains a great deal of "negative evidence," which shows that use of the Housatonic River for logging operations was implausible. For example, Dr. Collier's extensive review of sawmill account books discovered only one entry related to logs taken from the Housatonic. Dr. Collier also examined local newspapers covering a critical period of 40 years and found no mention of logging activities.

Mr. Thorpe, the witness most familiar with the physical characteristics of the Housatonic River, testified that it is highly unlikely that the Housatonic could ever have been utilized for logging operations. Because the river channel is frequently narrow, winding and strewn with boulders, logs would jam. Steep drops in the river gradient would result in logs being broken. Also, Mr. Thorpe examined the length of the Housatonic River and failed to find any evidence along the river of artifacts normally found where logging operations are conducted.

The Initial Decision did not refute the evidence of the physical characteristics of the Housatonic River offered by CL&P. The Commission's decision finds its only support in reports of logging activities. However, even if all the evidence cited by the Presiding Judge concerning logging activities were accepted as unquestionably accurate, despite all the objective evidence in the record to the contrary, such meager and widely scattered accounts cannot constitute substantial evidence of

logging operations on the Housatonic River upon which Commission jurisdiction can be based.

Navigation by Boat - The primary test of the navigability of a river is whether it has been, is or could be used for commercial, interstate boating. Such navigability must be demonstrated by substantial evidence, which was not presented in this proceeding. The isolated instances of boat transportation along the Housatonic River are widely scattered in time and do not provide substantial evidence from which to determine whether the Housatonic has been suitable for commerce in past years. The few accounts of boat traffic since the Revolutionary War concerned small boats or canoes used for non-commercial purposes. The Irrelevance of pre-Revolutionary War evidence was discussed at pages 5 to 6. The Initial Decision pointed to the Yale crew as evidence of boat traffic, but college crew uses the river solely for sporting purposes, at a point well below any of the projects, where navigability is not in dispute. The other accounts of boating activities fall precisely within the scope of simple boat travel the Supreme Court held not to constitute evidence of navigability in Leovy v. United States, 177 U.S. 621, 634 (1900). "It is not 'every small creek in which a fishing skill or gunning canoe can be made to float at high water, which is deemed navigable, but in order to give it the character of a navigable stream it must be generally commonly useful to some purpose of trade or agriculture.'" Id.

The Staff, Intervenors and Profession Collier engaged in an exhaustive review of over 300 years of public and private records, and could discover only a few accounts of small boat traffic discussed in the Initial Decision. Such evidence is clearly insufficient for a determination that the Housatonic is a "continued highway of commerce" a necessary condition for a finding of navigability. United States v. Appalachian Electric Power Company, 311 U.S. 376, 411 (1940). The contrary conclusion regarding navigability of the Housatonic seems inescapable -- the Housatonic clearly has not been used for navigation nor is it suitable for such use.

In summary, the evidence presented in this proceeding did not show actual or historic use of the Housatonic River for commercial navigation which is the basis for a finding of navigability, as held in Appalachian Power and Rochester Gas, supra. Instead the relatively few items of evidence of navigability in the record are of a similar nature to the evidence in Leovy, which was held not to constitute substantial evidence of navigability. The Commission has erroneously failed to recognize that the Staff and Intervenors failed to meet their burden of proof, and the evidence on the record as a whole is not substantial enough to support a finding of jurisdiction.

III. THE COMMISSION ERRONEOUSLY ADOPTED THE FINDING OF THE INITIAL DECISION THAT THE FOUR CL&P PROJECTS EFFECT INTERSTATE COMMERCE.

If substantial construction has occurred After August 26, 1935 at a project originally constructed prior to 1935 and which affects interstate commerce, a license is required under Section 23(b) of the Act. Assuming that the Stevenson Project is located on a non-navigable portion of the Housatonic River, and since it was initially constructed prior to August 26, 1935, that Project is subject to Commission jurisdiction only if substantial evidence in this proceeding shows that (1) work which has taken place at the Stevenson Project subsequent to 1925 is of such nature and degree as to change its identity to a post-1935 project, and (2) the Stevenson Project affects interstate commerce.

The post-1935 work at the Stevenson Project The character of the post-1935 work done at the Stevenson Project was primarily in the nature of maintenance and repair, such as welding work and increased safety devices. The Project was originally constructed so that future installation of a fourth unit could be made without any structural modifications. Space for the unit was left in the powerhouse, and intake facilities and water passages for the additional unit were provided. In 1930, steps for the installation of the fourth unit were initiated with a study of the proper size for the unit. Actual installation work began in January, 1936, and required no substantial alterations in the dam or powerhouse. Minor modifications to the top of the draft tube were required, along with the installation of a new draft tube liner, the removal of old cribbing from the tailrace and dredging of the tailrace, rearrangment of the washroom facilities in the power plant and the installation of the transformer and switching equipment of the new unit. The undisputed evidence showed that both CL&P and its consulting engineers regarded the installation of the fourth unit as a project which was planned in 1917 and activated in 1930.

The amount of post-1935 completion work at Stevenson cannot be compared to the magnitude of the substantial construction found to have occurred in Montana Power Company, 22 F.P.C. 502 (1959), aff'd sub nom. Montana Power Company v. Federal Power Commission, 298 F.2d 335 (D.C. Cir. 1962). There the new unit had the capacity of 60,000 kilowatts and cost $4,860,339. The fourth unit at Stevenson has a capacity of only 8,000 kilowatts and cost only $287,000 to complete the installation. Other cases in which post-1935 work has resulted in a finding of Commission jurisdiction have all involved

substantially more extensive work than that done at Stevenson, including additions of new powerhouses. See Bangor Hydro-Electric Company F.P.C. 278 (1965); Northwest Paper Company, 30 F.P.C. 1463 (1963). The work done at the Stevenson Project was more similar to that in Western Massachusetts Electric Company, 32 F.P.C. 129 (1964), which was found not to be sufficient for Commission jurisdiction. There an existing dam was modified, but no significant structural changes were made. The work was in the nature of addition to existing structures, much the same as the addition to existing structures at the Stevenson Project. In summary, the work done at the Stevenson Project after 1935 does not constitute "construction" within the meaning of Section 23(b) of the Act.

Interstate Commerce - The Presiding Judge erroneously concluded that the Commission has jurisdiction over the Shepaug and Stevenson Projects on the basis that power generated at the Projects affects the interests of interstate commerce because the projects are interconnected with an interstate transmission system. Farmington River Power Company v. Federal Power Commission, supra, limited the effect of Section 23(b) of the Act to post-1935 projects. Thus the issue of a hydroelectric project's effect on interstate commerce in this proceeding relates only to the one CL&P project shown by substantial evidence in the record to constitute a post-1935 project within the meaning of Section 23(b) of the Act, the Shepaug Project.

In Federal Power Commission v. Union Electric Co., 381 U.S. 90 (1965), the Supreme Court limited Section 23(b) to require hydroelectric project licensing when "...commerce interests are vitally involved." The evidence in this proceeding established that all the electric energy produced by each of the CL&P projects flowed to loads in the local area and none of the energy produced by the projects flowed into interstate transmission. The Presiding Judge recognized that evidence of such commingling was absent in this case. (Initial Decision, 28.)

There is no dispute that the CL&P system functions as part of an interconnected interstate transmission network. However no court or Commission decision has ever before held that solely by reason of such a condition, without more, that every hydroelectric project in such a system affects the interest of interstate commerce within the meaning of Section 23(b) of the Act. The Commission's order adopts this extreme interpretation, and has effectively turned the Court's statement in Jersey Central Power and Light Company v. Federal Power Commission, 319 U.S. 61, 72 (1943), "[m]ere connection determines nothing" into "mere connection determines everything." The Commission has erroneously adopted the Presiding Judge reasoning that electromagnetic interlocking of the interstate transmission grid necessarily results in some effect on interstate power

flows whenever any of the Projects are generating or not generating. There is no support in legislative history, or any other source, for the necessary conclusion that Congress intended through the language of Section 23(b) to extend the licensing power of the Commission to facilities whose only effect on interstate commerce might occur in such an indirect manner.

IV. THE COMMISSION ERRONEOUSLY ADOPTED THE FINDING OF THE INITIAL DECISION THAT THE COMMISSION'S 1952 DECISION WAS NOT APPLICABLE TO THIS PROCEEDING.

In 1952 the Commission in Electric Power, Inc., 11 F.P.C. 1548 (1952), found that the interests of interstate commerce would not be affected by the construction and operation of the Shepaug Project and thus no license need be obtained for this construction and operation. The Commission's determination presumably included consideration of the navigability of the Housatonic River, because if a finding of navigability had been made, the Shepaug Project would have been found subject to the Commission's jurisdiction. The Presiding Judge erroneously assumed that if the Commission had considered the issue of navigability at all, it had merely accepted Electric Power's assertion that the river was non-navigable at or below the site of the Shepaug Project.

The Commission has also erroneously adopted the Presiding Judge's refusal to consider the applicability of the Commission's 1952 findings to the other projects. Though the Commission did state that its findings concerning the Shepaug Project did not pertain to other projects on the Housatonic, there is no evidence in the record that the River's characteristics are any different at the other sites than at Shepaug. Only below the farthest downstream project (Stevenson), does the Housatonic River become wider and less rocky and the gradient change significantly. Accordingly, there has been no showing that the 1952 Commission findings are not equally applicable to the issue of Housatonic River navigability at the other three CL&P projects.

CONCLUSION

For the foregoing reasons, CL&P respectfully requests that the Commission vacate its Order Affirming Initial Decision issued May 24, 1976, and reverse and modify the Initial Decision

as follows:

Navigability

The Housatonic River are the points of the four CL&P projects is not navigable in interstate commerce.

Effect on Interstate Commerce

The work done on the Stevenson Project after 1935 does not constitute construction within the meaning of Section 23(b) of the Act.

Power generated by the Shepaug Project (and the other three projects) does not affect the interests of interstate commerce.

Jurisdiction

Therefore, the Commmission has no jurisdiction over any of the four CL&P Projects on the Housatonic River.

Respectfully Submitted,
THE CONNECTICUT LIGHT
AND POWER COMPANY

BY_____
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UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Richard L. Dunham, Chairman;
Don S. Smith, John H. Holloman III,
and James G. Watt.

Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632 and 2646

ORDER DENYING APPLICATION FOR REHEARING

(Issued July 23, 1976)

On May 24, 1976, we issued an order affirming and adopting an initial decision of the presiding Administrative Law Judge in this docket issued on August 19, 1975. The case was before us for review because of briefs on exceptions filed by Connecticut Light and Power Company (CL&P), Candlewood Lake Authority, and Staff. The initial decision which we approved and adopted found that four hydroelectric projects operated by CL&P on the Housatonic River are subject to the jurisdiction of the Federal Power Commission. These projects are Bulls Bridge located 52.9 miles upstream from the river mouth, Rocky River, 44.3 miles upstream, Shepaug, 30 miles upstream and Stevenson, 19.3 miles upstream. Rocky River is a seasonal pumped-storage facility and the others are run-of-the-river facilities. Bulls Bridge was built in 1903 and acquired by CL&P in 1917. Rocky River was completed in 1928, Shepaug in 1955, and Stevenson in 1920.

On June 23, 1976, CL&P filed application for rehearing of the Commission's order of May 24, 1976. We will deny the application for rehearing.

Each of the contentions in CL&P's application for rehearing were also raised in its exceptions to the initial decision. Our brief Order affirming and adopting the findings and conclusions in the initial decision did not discuss in detail the contentions of CL&P in its brief on exceptions, since these contentions are each effectively dealt with in the thirty-four page initial

decision of Presiding Administrative Law Judge, Israel Convisser. The grounds on which CL&P rests its application for rehearing are the same as those it raised in its brief on exceptions and similarly are each effectively dealt with by the initial decision.

CL&P points out at page four of its application for rehearing that the initial decision speaks of the evidence as to navigability as not being "overwhelming". This does not mean that the record as a whole does not establish by substantial evidence that the Housatonic is navigable within the meaning of Section 3(8) of the Act at least as far upstream as the Bulls Bridge Project. We believe that the record does do so.

With respect to the issue of navigability, CL&P discusses several cases which in its view preclude a finding of navigability. The initial decision contains a detailed analysis of the pertinent authority on the subject of navigability. While the cases cited in the application for rehearing were not specifically discussed in the initial decision, the points that they raise warrant no alteration of the conclusion. Therefore, a discussion of them here is unnecessary.

Similarly, with respect to the issue of post-1935 construction at the Stevenson Project, the cases relied on by CL&P at page 10 of its application for rehearing do not alter the finding that CL&P did engage in construction of project works at the Stevenson Project after August 26, 1935.

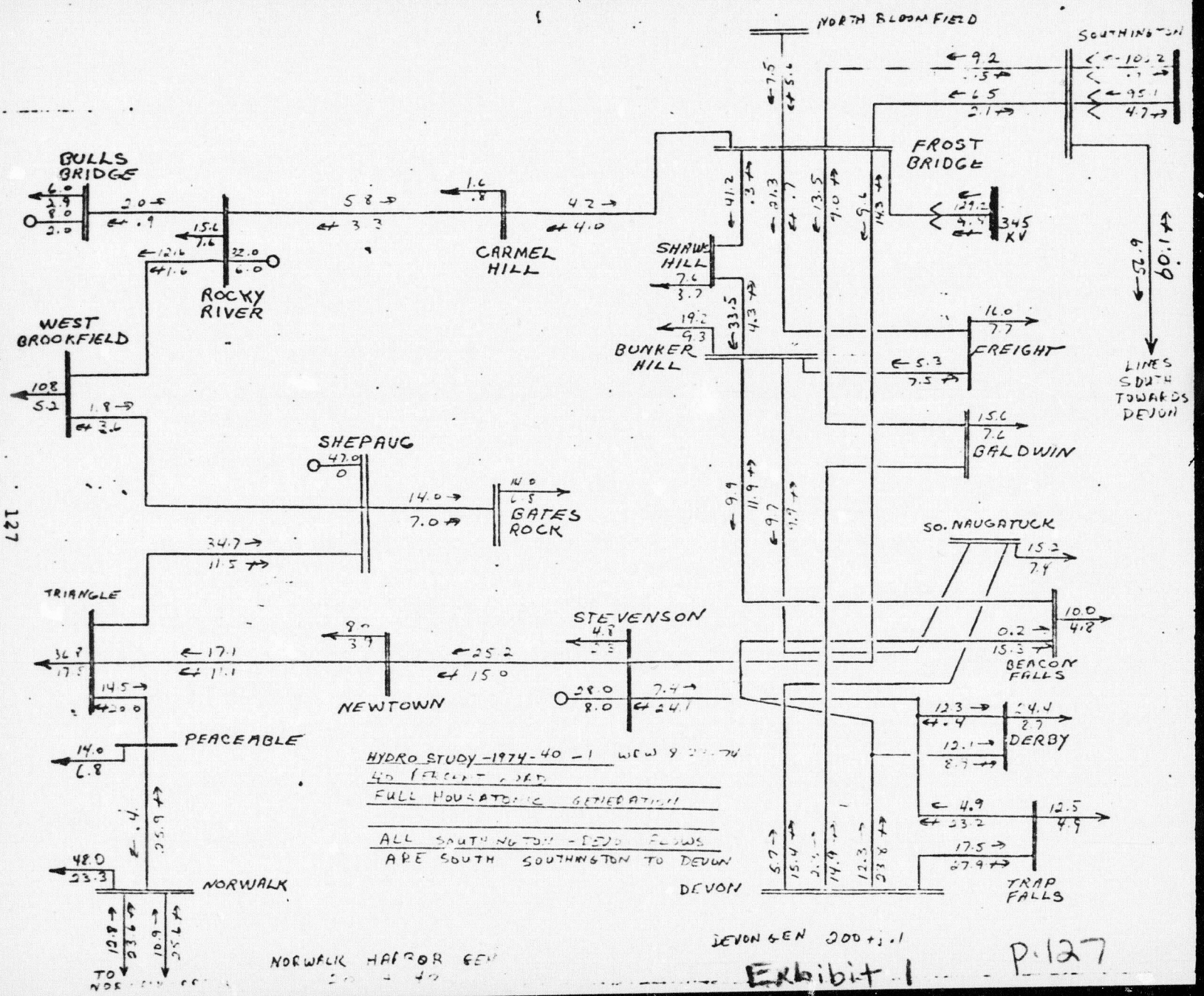
The Commission orders:

The application for rehearing filed by Connecticut Light and Power Company of our order issued May 24, 1976, is denied.

By the Commission.

(SEAL)

Kenneth F. Plumb,
Secretary.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SHAW HILL
BUNKER HILL
WEST BROOKFIELD
FREIGHT
LINES SOUTH TOWARDS DEVON
BALDWIN
SHEPAUG
GATES ROCK
SO. NAUGATUCK
TRIANGLE
STEVENSON
NEWTOWN
BEACON FALLS
DERBY
PEACEABLE
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ALL SOUTHINGTON - DEVON FLOWS ARE SOUTH
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Exhibit 1

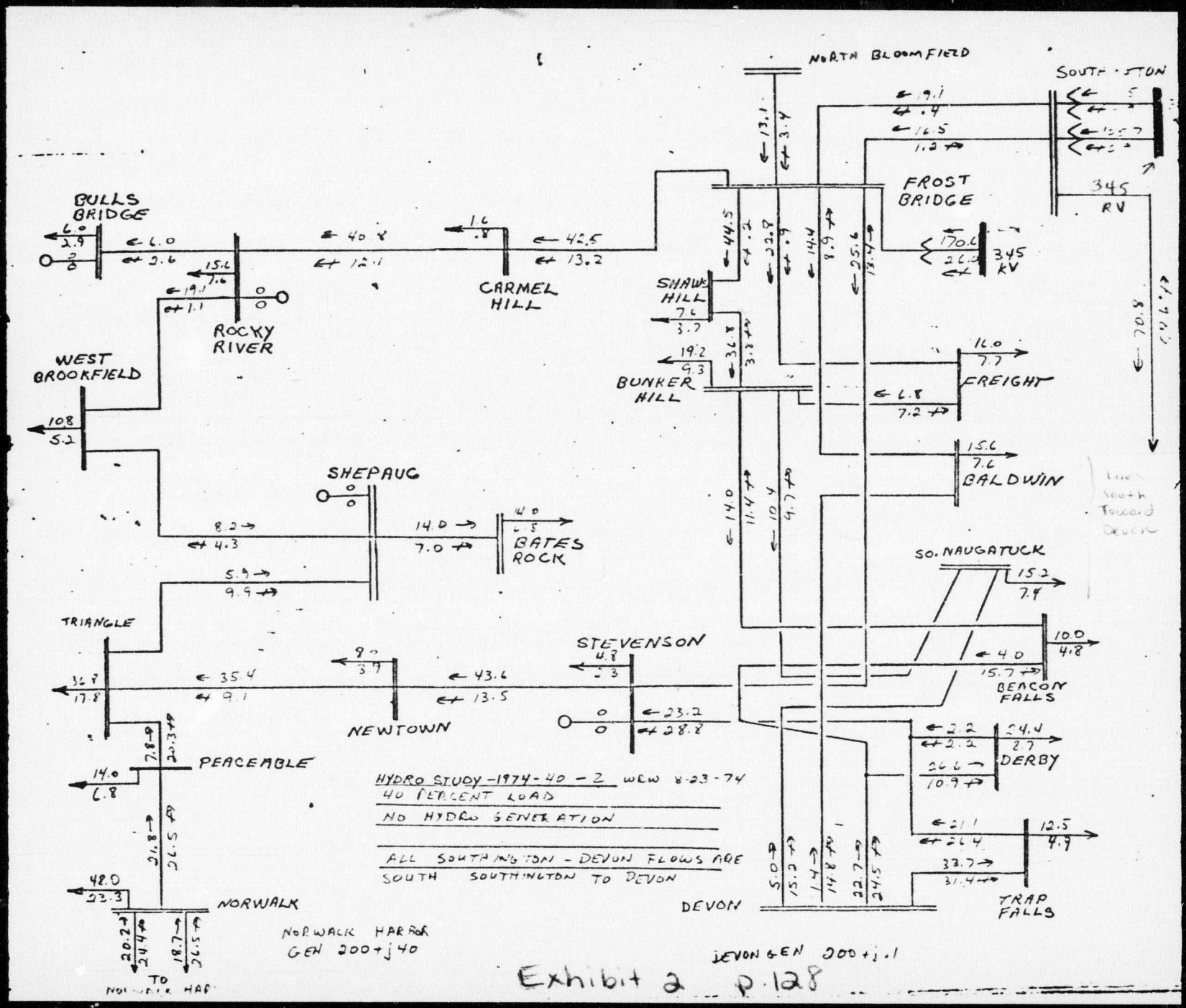

Exhibit 2 p. 128

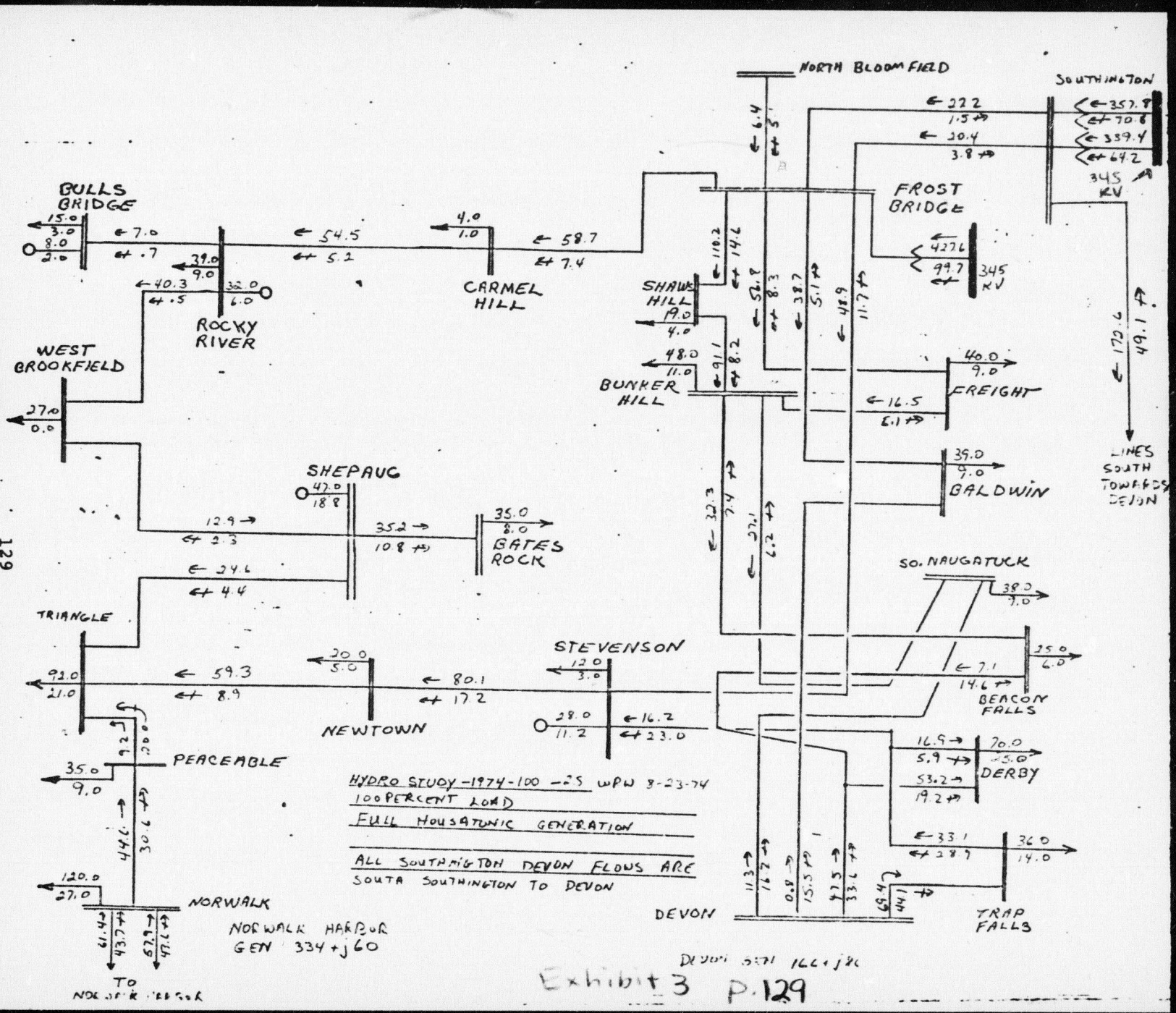

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Exhibit 3 P. 129

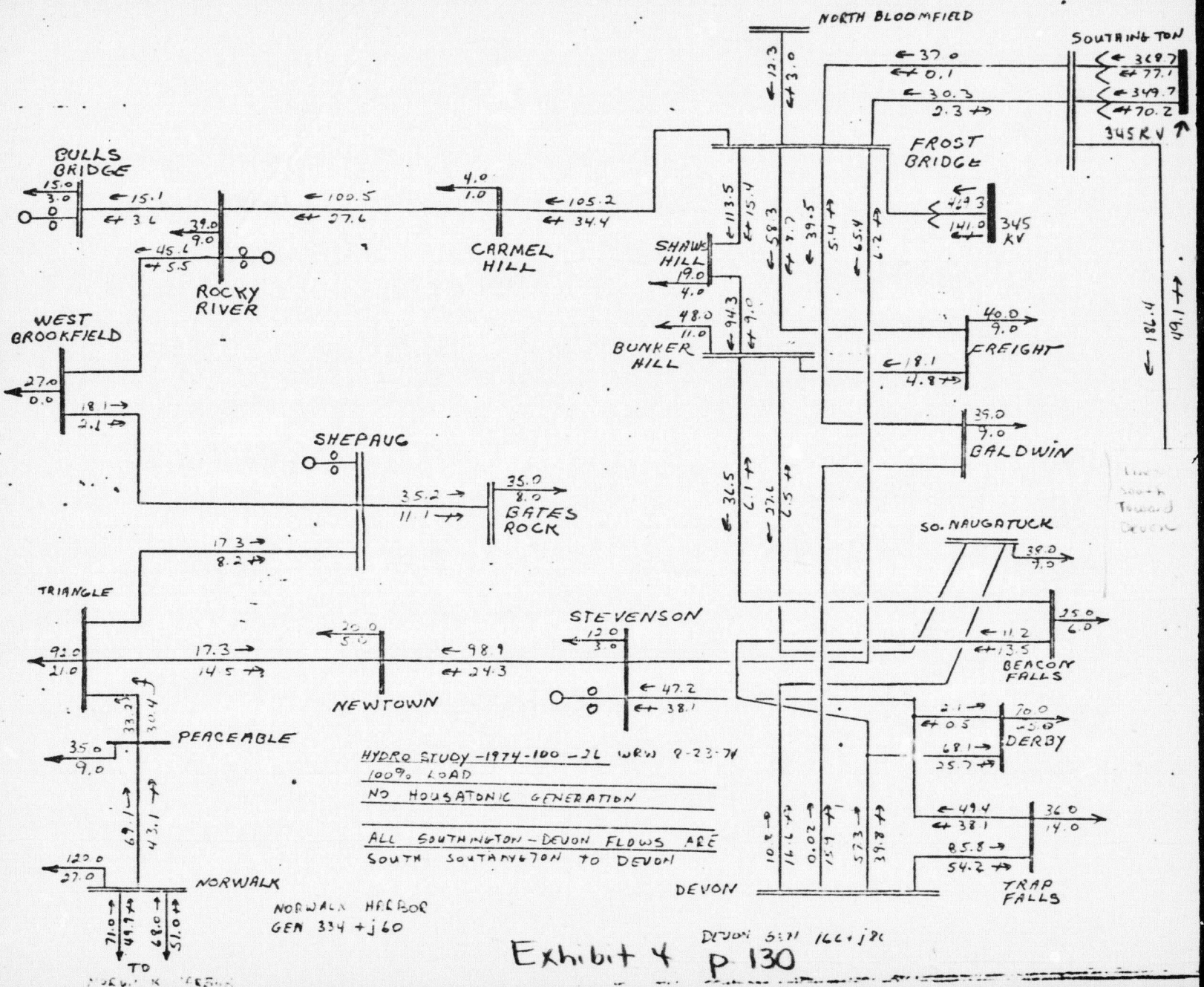

Exhibit 4 p 130

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Exhibit 5
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Exhibit 6

Work Performed After August 26, 1935

Stevenson Project
FPC Project No. 2646
The Connecticut Light and Power Company

Date	Description of Work Performed	Effect On Reported Station Capacity	Cost*
1936	Unit #4 completed.	+ 8,000 kW	$ 287,000
1949	Unit #1 new wheel and draft tube, new windings and rotor.	None	-
	Unit #2 new wheel and draft tube.	None	-
	Unit #4 new wheel.	None	-
1950	Unit #3 new wheel and draft tube, new windings and rotor.	None	-
1951	Unit #1, new head on governor.	None	-
1952	Unit #3, new head on governor.	None	-
1953	Unit #2, and #4, new head on governor.	None	-
1954	Unit #2, new windings and rotor.	None	-
1958	Install Taintor Gates.	None	$1,681,300
1960	Excavate ledge downstream of taintor gates.	None	$ 15,000
	Replace headgate racks. Units 1, 2, & 3.	None	$ 21,579
1966	Install 100 kW Emergency Generator.	None	$ 11,385
1967	Weld #4 runner.	None	$ 4,702

*NOTE: Where cost figures are not given for specific items of work, they were not readily available. In each such case, however, the cost is estimated to be insignificant when weighed against the total project cost or even the total cost of other post-1935 work at the project.

Exhibit 7

Work Performed After August 26, 1935

Rocky River Project
FPC Project No. 2632
The Connecticut Light and Power Company

Date	Description of Work Performed	Effect On Reported Station Capacity	Cost*
1941	Rip-rap tailrace.	None	-
1943	Rip-rap main dam.	None	-
1951	Generator rewound. New converting governor head installed.	None	-
1952	Two pumps modified so they could also be used as turbines.	+ 7,000 kW	$ 14,575
1952	Top head of conversion governor replaced.	None	-
1956	Office and workshop building addition.	None	-
1963	Installed Automatic Dispatching Equipment.	None	$ 12,230
1965	Replaced 15 ft. diameter wood penstock.	None	$250,000
1970	Install New 54" Penstock Valves	None	$ 61,800

*NOTE: Where cost figures are not given for specific items of work, they were not readily available. In each such case, however, the cost is estimated to be insignificant when weighed against the total project cost or even the total cost of other post-1935 work at the project.

Ex. 11

BIBLIOGRAPHY

OF

CHRISTOPHER COLLIER

Printed Sources

Abbott, Katharine M. Old Paths and Legends of the New England Border: Connecticut Deerfield Berkshire. New York: G.P. Putnam's Sons, 1907.

Albion, Robert Greenhalgh. Forests and Sea Power: The Timber Problem of the Royal Navy, 1632-1862. Cambridge: Harvard University Press, 1926.

Anonymous, Along the Housatonic Lines: An Illustrated View . . . Bridgeport: Bridgeport Publishing Company, 1892.

Anonymous, Considerations on the Practicability and Importance of Opening a Navigation to the Interior of the State by the Housatonic River. 1822.

Anonymous, History of Litchfield County, Connecticut. Philadelphia: J.W. Lewis & Co., 1881.

Atwater, Francis. History of Kent, Connecticut. Meriden, Conn.: The Journal Publishing Company, 1897.

Barber, John Warner. Connecticut Historical Collections. 2d ed., New Haven: Durrie & Peck, 1836.

Bishop, J. Leander. A History of American Manufactures from 1608 to 1868. 3 vols. Philadelphia: Edward Young & Co., 1868.

Bolton, Edward. The History of Pittsfield, Massachusetts from the Year 1876 to the Year 1916. Pittsfield: The City of Pittsfield, 1916.

Bulkeley, Morgan. "Housatonic Navigation," The Berkshire Eagle, reprinted in The [Ansonia] Evening Sentinel, January 21, 22, 1969.

Byron-Weston Company. Dalton: The Home of Fine Rag Paper. Dalton, 1928.

Carroll, Charles F. The Timber Economy of Puritan New England. Providence, R.I.: Brown University Press, 1973.

Castellux, Marquis de. Travels in North America in the Years 1780, 1781 and 1782. Edited by Howard C. Rice, Jr. Chapel Hill: University of North Carolina Press, 1963.

Child, Hamilton. Gazetteer of Berkshire County, Massachusetts, 1725-1885. Syracuse: The Journal, 1885.

Church, Samuel. A Historical Address . . . of the Town of Salisbury. New Haven: Hitchcock and Stafford, 1842.

Colles, Christopher. A Survey of the Roads of the United States of America, 1789. Cambridge, Mass.: Harvard University Press, 1961.

Collier, Christopher. Roger Sherman's Connecticut: Yankee Politics and the American Revolution. Middletown, Conn.: Wesleyan University Press, 1971.

Connecticut. Public Records of the Colony. Edited by J.H. Trumbull, et al. Hartford, 1851-1890. 15 vols.

Connecticut. Public Records of the State. Edited by C.J. Hoadley, et al. 11 vols. Hartford, 1894-1967.

Connecticut. The Public Statute Laws of the State of Connecticut. Hartford: Hudson & Goodwin, 1808.
As Revised By the General Assembly in May, 1821. Hartford: Goodrich & Huntington & Hopkins, 1821.
Compiled In Obedience To A Resolve of theGeneral Assembly Passed May 1838. Hartford: John L. Bosnell, 1839.

Connecticut Forest and Park Association. Papers on Housatonic River land use given before the March 20, 1968 at the Stratfield Motor Inn, Bridgeport, Connecticut.

Connecticut Forest Commission. Report of the Forest Commission. (later the Forest and Park Commission), "Report of the State Forester." 1901-1944.

Connecticut Historical Society. Collections. "Wolcott Papers." vol. XVI (1916); "Fitch Papers." vol. XVII (1920); "Pitkin Papers." vol. XIX (1921).

Connecticut Woodlands. (Publication of the Connecticut Forest and Park Association). Full run.

Cooke, Rollin Hillyer. Historic Homes and Institutions and Geological and Personal Memoirs of Berkshire County, New York. 1906.

Cothren, William. History of Ancient Woodbury, Connecticut from the First Indian Deed in 1659 to 1872. Woodbury: Published by the author, 1872.

Countryman, William A. "Transportation." in Norris Galpin Osburn, ed. History of Connecticut in Monographic Form. vol. IV. New York: States History Company, 1925.

Crofut, Florence S. Marcy. Guide to the History and Historic Sites of Connecticut. 2 vols. New Haven: Yale University Press, 1937.

Crossman, Joseph W. A New-Year's Discourse Delivered At Salisbury. . . Containing The Ancient History of the Town. Hartford: Hudson and Goodwin, 1803.

Darby, William and Dwight, Theodore, Jr. A New Gazetteer of the United States of America. Hartford, Edward Hopkins, 1833.

Defebaugh, James Elliot. History of the Lumber Industry of America. 2 vols. Chicago: The American Lumberman, 1907.

DeForest, John W. History of the Indians of Connecticut From the Earliest Known Period to 1850. Hamden, Conn.: Archon Books, 1964 [1851].

Derby. Town Records and Minutes of the Town Meeting, 1755-1810. Derby, Sarah Riggs Humphreys Chapter, Daughters of the American Revolution, 1901.

Dwight, Timothy. Travels in New England and New York. Edited by Barbara Miller Solomon. Cambridge: Harvard University Press, 1969. 4 vols.

Eaton, W.P. "Two Hundred and Fifty Years of History." in Roderick Peattie, ed. The Berkshires: The Purple Hills. New York: Vanguard Press, 1948.

Fairchild, Wilma Beldon. "Changes in Industry in the Upper Housatonic Valley." Unpublished M.A. thesis. Clark University, 1937.

Federal Writers Project. American Guide Series: The Berkshire Hills. Boston: 1938.

Field, David D. A History of Berkshire County, Massachusetts. Pittsfield: Samuel W. Brush, 1829.

_____. A History of the Town of Pittsfield. Hartford: Press of Case, Tiffany and Burnham, 1844.

Fletcher, E.D. and Hawes, A.F. The Use of Lumber and Wood in Connecticut. Hartford: 1928.

Gale, Amory. History of the Town of Lee, Massachusetts. Lee: French & Royce, 1854.

Gipson, Lawrence. Jared Ingersoll. New Haven: Yale University Press, 1920.

Gold, Theodore. Historical Records of the Town of Cornwall. Hartford: 1877.

Grant, Charles S. Democracy in the Connecticut Frontier Town of Kent. New York: AMS Press, 1961.

Harrison, Samuel. Pittsfield Twenty-Five Years Ago. Pittsfield: Chickering & Axtell, 1874.

Hawley, Emily C. Annals of Brookfield, Fairfield County, Connecticut. Brookfield, Conn.: Published by the author, 1929.

_____. The River of Many Falls. Brookfield, Conn.: Published by the author, 1928.

Heaphy, Joe, "The Great Port of New Boston? Darby? Derby?," New Haven Register Sunday Pictorial, August 31, 1969.

Holbrook, Stewart H. Yankee Loggers: A Recollection of Woodsmen, Cooks, and River Drivers. New York: International Paper Company, 1961.

Hopkins, Francis W. "An Historical Sketch of Local Finance in Connecticut until 1930 with Special Reference to Forest Resources, . . ." Photocopy of typescript revision of unpublished Ph.D. Dissertation, Yale University, 1936.

Hough, Franklin B. Report on Forestry. 4 vols. Washington, D.C.: USGPO, 1880.

Housatonic Rail Road Company. Annual Reports. 1838, 1843, 1844, 1847, 1851-1888. Copies at the Connecticut State Library.

[H]ousatonic Water Company. "Engineer's Report and Charter." New Haven: T.J. Stafford, 1864.

Howell, Kenneth T. and Carlson, Einar W. Empire Over the Dam: The Story of Waterpowered Industry Long Since Passed from the Scene. Chester, Conn.: The Pequot Press. To be published October, 1974.

Hoyt, Joseph B. The Connecticut Story. New Haven: The Readers Press, 1961.

Hoyt, Joseph B. "The Historical Geography of Berkshire County, Massachusetts." Unpublished Ph.D. Dissertation, Clark University, 1954.

Housatonic Valley Association, "A valley to preserve and restore," Kent, Connecticut, H.V.A., n.d.

Hyde, C.M. (comp.). Lee: The Centennial Celebration and Centennial History. Springfield: Clark W. Bryan and Co., 1872.

Johnson, Jane Eliza. Newtown's History and Historian Ezra Levan Johnson. Newtown: n.p., 1917.

Jones, Electa F. Stockbridge, Past and Present. Springfield: Samuel Bowles & Company, 1854.

Kennard, W. C. and Fisher, J.S. A Bibliography of Publications Relating to Water Resources in Connecticut, 1960-1970. Storrs, The University of Connecticut Institute of Water Resources, 1970.

Lord, Eleanor L. Industrial Experiments in the British Colonies of North America. Baltimore: Johns Hopkins Press, 1898.

Malone, Joseph J. Pine Trees and Politics: The Naval Stores and Forest Policy in Colonial New England, 1691-1775. Seattle: University of Washington, 1964.

Massachusetts Historical Society. Collections. "Wadsworth's Journal." Fourth Series, vol. I. 1852.

Maunder, Elwood R. "The History of Land Use in the Housatonic Valley," Connecticut Woodlands. XXXIII (Spring, 1968).

Maxwell, Hu. "The Development of Logging Operations." American Forestry. vol. 24 (May, 1918).

Middlebrook, Louis F. Maritime Connecticut During the Revolution. 2 vol. Salem: The Essex Institute, 1925.

Mills, Robert. A Treatise on Inland Navigation, Accompanied by a Map. Baltimore: F. Lucas, Jr., 1820.

Mitchell, Isabel S. Roads and Road-Making in Colonial Connecticut. New Haven: Yale University Press, 1933.

Mitchell, Mary Hewitt. History of New Haven County, Connecticut. Boston: Pioneer Historical Publishing Company, 1930.

Molloy, Leo T. Tercentenary Pictorial and History of the Lower Naugatuck Valley. Ansonia, Press of the Emerson Bros., Inc., 1935.

Morgan, Forrest, ed. Connecticut as a Colony and as a State. . . 4 vols. Hartford: The Publishing Society of Connecticut, 1904.

Morris, James. A Statistical Account of Several Towns in the County of Litchfield. n.p., n.p., n.d.

Morse, Jedidiah. The American Universal Geography; . . . Boston: Thomas & Andrews, 1812.

Morse, Jedidiah and Morse, Richard C. A New Universal Gazetteer or Geographical Dictionary. New Haven: Sherman Converse, 1821.

Moss, Albert. "A Forest Survey of Connecticut." Part II. Forestry Publication. No. II. Eighth Report of the State Forester, 1915.

Myott, Clarence W. Report . . . on the Connecticut, Thames and Housatonic Rivers. Hartford: The Hartford Electric Light Co., 1945.

New Haven Colony Historical Society. Papers. vol. IX. "The Ingersoll Papers."

Olson, Albert Laverne. Agricultural Economy and the Population of Eighteenth-Century Connecticut. New Haven: Yale University Press, 1935.

Orcutt, Samuel. History of New Milford and Bridgewater, Connecticut. Hartford: 1882.

Orcutt, Samuel and Beardsley, Ambrose, M.D. The History of the Town of Derby, Connecticut, 1642-1880. Springfield, Mass.: Press of Springfield Printing Company, 1880.

Pease, John C. and Niles, John M. A Gazetteer of the States of Connecticut and Rhode-Island. Hartford: William S. Marsh, 1819.

Phillips, J.C. and Cabot, T.D. Quick Water and Smooth: A Canoeist's Guide to New England Rivers. Brattleboro, Vt.: Stephen Daye Press, 1935.

Pike, Robert E. Tall Trees, Tough Men. New York: W.W. Norton 1967.

Pitkin, Timothy. A Statistical View of the Commerce of the United States of America. Hartford: Charles Hosmer, 1816.

Purcell, Richard. Connecticut in Transition, 1775-1818. Middletown, Conn.: Wesleyan University Press, 1918.

Reis, Robert I. Connecticut Water Law: Judicial Allocation of Water Resources. Storrs, Conn.: University of Connecticut Institute of Water Resources, 1967.

Robbins, Thomas. A Century Sermon . . . With A Sketch of Danbury. . . Danbury: E.B. Osborne, 1846.

Root, Jesse. Report of Cases. vols. I and II. Hartford: Hudson & Goodwin, 1798 and 1802.

Saladino, Gaspare John. "The Economic Revolution in Late Eighteenth Century Connecticut." Unpublished Ph.D. Dissertation, University of Wisconsin, 1964.

Salisbury Association. Historical Collections of the Salisbury Association. 2 vols. New Haven: The Association, 1913, 1916.

Sedgwick, Charles F. General History of the Town of Sharon, Litchfield County. Amenia, New York: 1918.

Sedgwick, S.C. and Marquand, C.S. Stockbridge 1739-1939, A Chronicle. Great Barrington, Mass.: The Berkshire Courier, 1939.

Sheffield, Mass. Centennial Celebration of the Town of Sheffield. Sheffield: 1876.

Sherwood, Albert F. Memories of Old Derby. Derby, Conn.: Sarah Riggs Humphreys Chapter, Daughters of the American Revolution, 1924.

Smith, Chard Powers. The Housatonic: Puritan River. New York: Rinehart & Company, 1946.

Smith, Joseph E.A. The History of Pittsfield, Massachusetts From the Year 1734 to the Year 1800. 2 vols. Boston: Lee and Shepard, 1869, 1876.

Starr, Edward C. A History of Cornwall, Connecticut: A Typical New England Town. New Haven: The Tuttle Morehouse & Taylor Company, 1926.

Stone, Leman. Considerations on the Practicability and Importance of Opening a Navigation to the Interior of the State by the Housatonic River. New Haven: A.H. Maltby and Co., 1822.

BEST COPY AVAILABLE

Swift, Zephaniah. A System of the Laws of the State of Connecticut. 2 vols. Windham, Conn.: John Byrne, 1795.

Taft, Henry W. "State Control of Navigable Waters." Columbia Law Review. May, 1915.

Taylor, Charles J. History of Great Barrington, Massachusetts. 2 parts. Great Barrington: The Town of Great Barrington, 1928.

Thompson, Betty Flanders. The Changing Face of New England. New York: The Macmillan Company, 1958.

Treadway, Allen T. Stockbridge, Massachusetts, Drives and Walks. Pittsfield: 1909.

Trumbull, Benjamin. A Complete History of Connecticut Civil and Ecclesiastical. 2 vols. New London: H.D. Utley, 1898.

Turill, Henry Stuart. "The Two Abigails." in Two Centuries of New Milford, Connecticut. New York: The Grafton Press, 1907.

U.S. Geological Survey. Water Resources Survey of Connecticut. "Part G, Upper Housatonic River Basin." Connecticut Water Resources Bulletin. No. 21. 1972.

_____. Water Supply Paper 1779 - M. M.P. Thompson, et al. 1964.

Van Dusen, Albert E. "The Trade of Revolutionary Connecticut." Unpublished Ph.D. Dissertation. University of Pennsylvania, 1948.

Weeden, William B. Economic and Social History of New England, 1620-1789. 2 vols. New York: Houghton, Mifflin & Co., 1890-1894.

Whipple, A.B. "The Early Botany of Berkshire." The Berkshire Book. Pittsfield: Berkshire Historical Society, 1892.

Wilcoxson, William Howard. History of Stratford, Connecticut, 1639-1939. Stratford: The Stratford Tercentenary Commission, 1939.

Winer, Herbert I. "History of the Great Mountain Forest, Litchfield County, Connecticut." Unpublished Ph.D. Dissertation. Yale University, 1955.

Withington, Sidney. The First Twenty Years of Railroads in Connecticut. New Haven, Yale University Press, 1935.

Yale University. Pamphlet boxes:

"Speeches in Congress on Constitutional Authority over Inland Waterways."

"Pamphlets on the Navigation of the Housatonic River."

"Pamphlets on the Industries of Connecticut."

"Pamphlets on Economic Conditions of Connecticut."

Newspapers

[Danbury] Connecticut Intelligencer.

[Danbury] Republican Farmer.

[Hartford] Connecticut Courant.

[Litchfield] American Eagle.

[Litchfield] Gazette.

[Litchfield] Monitor.

[Litchfield] Witness.

[Pittsfield] Sun.

Manuscript Sources

Connecticut Historical Society:

Account books:
Daniel Scovill, 1802-1832, Waterbury.
Enos Bradley, 1794-1803, Naugatuck
Asaph French, 1806-1837, Prospect

Connecticut State Library:

Connecticut Archives:
Civil Officers
Corporations
Crimes and Misdemeanors
Finance and Currency

Industry
Lotteries and Divorces
Private Controversies
Trade and Maritime Affairs
Travel, Highways, Ferries, Bridges, and Taverns

Journal of the Connecticut House of Representatives

Litchfield Historical Society:

Account books:
Bezaleel Beebe, 1741-1824, Litchfield
Judson Canfield, 1783-1800, Sharon
Holly & Coffing, 1808-1809, Salisbury
Alva Dickinson, 1851-1862, Goshen
Freegift Hawkins, 1770-1825, Derby
Oliver Langdon, 1773-1791, Litchfield
James Morris, 1722-1789, Litchfield
Jonah Sanford, 1735-1817, Litchfield
Zechariah Thompson, 1800-1831, Litchfield

Journals and daybooks:
Luther Holley, 19th century, Salisbury

Miscellaneous deeds

Cornwall [Town Hall]:

"Records of Votes"

"Proprietors Records"

New Haven Colony Historical Society:

Charles Hull Basset, "Reminescences of an Old Gentleman." Typescript and manuscript.
Derby Fishing Company Letterbook, 1812-1817
Derby Turnpike Company Accounts, 1800-1897
Lucius S. Osborn, Account Book, 1832-1882 (lumbering business at Humphreyville, Seymour)
Miscellaneous Derby Turnpike Company Gate Receipts, 1805-1875

Yale University Historical Manuscripts Collections:

Salmon W. Buck Daybook, 1842-1864.
Loyal B. Clark, "Economic Development of Litchfield County." June 1, 1908. Typescript.

Interviewees

Rodney Aller, Salisbury Historical Society.

Marguerette Bourdon, Salisbury Historical Association.

Harriett L. Clark, Cornwall Historical Society.

_____ Edwards, Librarian, Berkshire Athanaeum, Pittsfield, Massachusetts.

Evelyn Hamlin, Sharon Historical Society.

Joseph Heaphy, town of Derby.

Garner Holmes, Cornwall Historical Society.

Housatonic Valley Association, Inc.

Kenneth T. Howell, author, Empire Over the Dam.

Joseph B. Hoyt, Professor of Geography, Southern Connecticut State College.

Thomas Lewis, Instructor in Geography, Manchester Community College.

Joseph Miller, Librarian, Yale University School of Forestry Library.

Francis Robinson, Salisbury Historical Society.

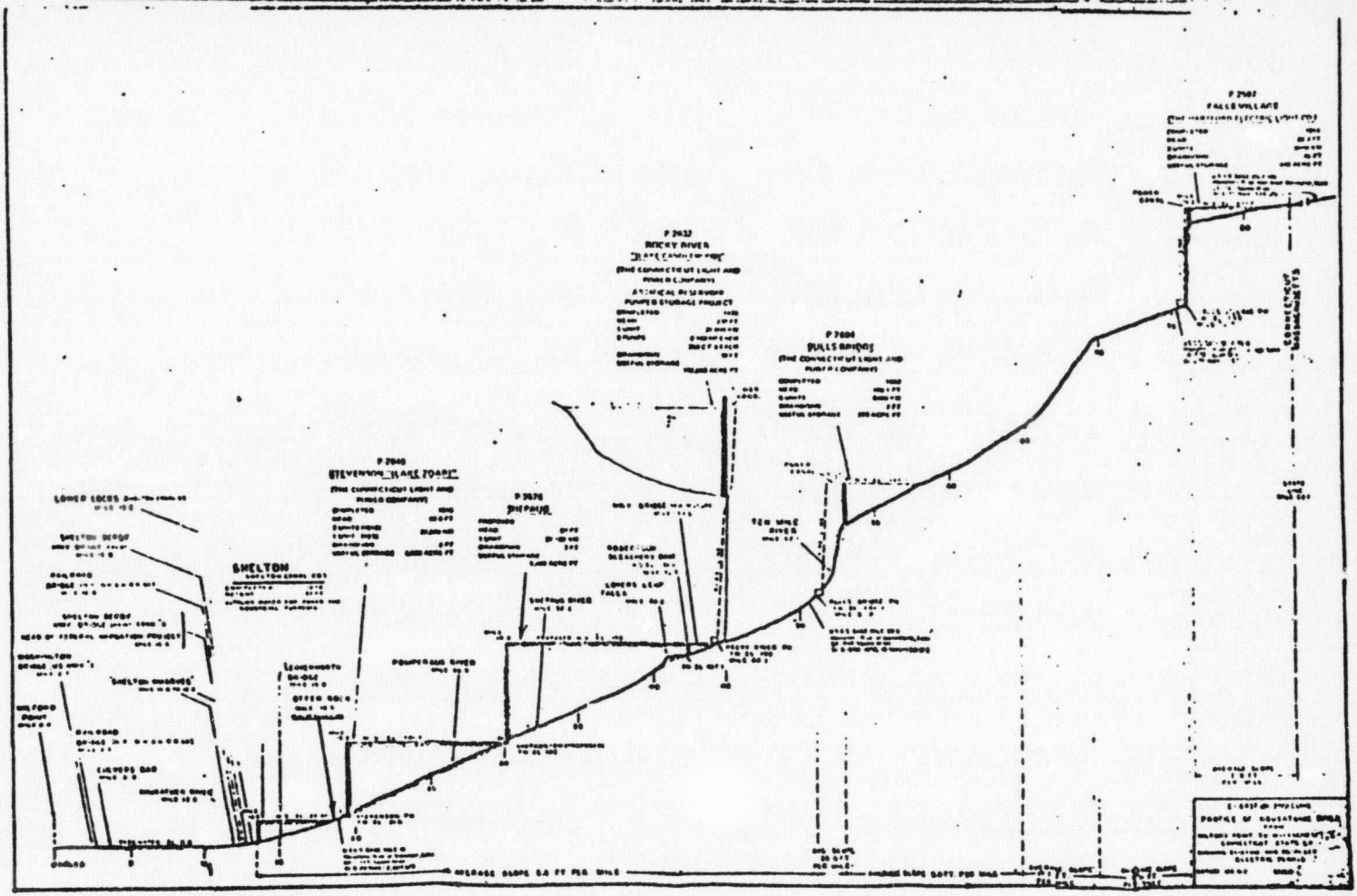

Exhibit DEA-1

p. 146

Exh. 13

Exhibit 19

NAVIGABILITY OF THE HOUSATONIC RIVER:
Report on Findings of Historical Evidence

The River to Derby

The earliest navigators of the Housatonic were the Indians of the valley. They used the river as a highway from their planted fields and hunting grounds in the upper valley to the sea where they gathered oysters, clams and other marine foods. The largest Indian settlement was just below the New Milford Falls, at a place then called "Weantinock". It is likely that the Indians settled there because the cove below the falls was the best spot on the river for catching shad, herring, or lamprey eels.[1]

Many ships of varying size have used the section of the river from its mouth at Milford to the head of the tide water at Derby.[2] Ships capable of ocean voyages were built and launched in Derby.[3] (See Appendix A)

Early Trade on the Housatonic

In the spring of 1638 a group of Puritans, fleeing religious persecution, settled at Quinipiac, or present day New Haven. They were led by John Davenport, a Calvinistic preacher, and Theophilus Eaton, a successful merchant.[4] From this base emerged a Puritanical colony with a trade and commercial orientation.

The colony began to grow at an early age. In 1639 it began to expand toward the Housatonic with the establishment of New Milford.[5]

Also in 1639 George Lamberton of New Haven became aware of the fur trade with the Indians along the Delaware River that the Swedes and Dutch had been cashing in on and with Governor Eaton, Davenport, Newman, and Turner formed the "Delaware Company" in an attempt to secure some of the profits for New Haven. In spite of the fact that the land was already claimed by the Dutch, Turner purchased most of the coast of southern New Jersey on behalf of the company, and in 1641 fifty families, led by George Lamberton, colonized the trading post.[6] Unfortunately for the New Haven colonists, both the Dutch and the Swedes were vehemently opposed to an English post in their territory and after fourteen years of disappointing failure, the project was abandoned.[7]

The desire for furs also brought New Haven men to the Northwest. In 1642 Stephen Goodyear, John Wakeman, and Matthew Gilbert purchased land on Birmingham Point, north of

Milford, near what was later to become the village of Paugassett (Derby), and built a post for purposes of trade with the Indians. [8] At about the same time, Stephen Goodyear built a second trading house on Goodyear's Island, just below the New Milford Falls.[9] This was an ideal location, the falls being a place where many Indians came to fish. [10] Indian canoes could bring furs down the river from the north, following the pattern made famous by the Hudson's Bay Company.[11] The post was protested by the Dutch as an intrusion into their domain, the Dutch evidently believing the Housatonic was a tributary of the Hudson, but nothing more serious than letter writing ever actually came of the matter. [12]

The furs and skins acquired from the Indians were transported to Goodyear's wharves and warehouses at New Haven (The New Haven Colony, Calder, p. 162) and from there sent to markets in the colonies and overseas. Much New Haven trade went to Boston. While some goods stayed there, in many cases Massachusetts served only as a way station on the journey to England.[13]

Shipbuilding

The first ship built in Milford was constructed for Richard Bryan in 1690 by Bethuel Langstaff. Vessels were continuously constructed in Milford until 1820. [14] Derby's first shipbuilding was probably conducted by Thomas Wheeler of Stratford, for a period of six years beginning in 1657 and continued by Alexander Bryan of Milford. Bryab continued to build ships through at least 1720. The next major ship builders to appear were the Leavenworths. Their first ship, the "Anaconda", was built in 1760. Edward Leavenworth and his sons constructed a total of 21 ships at what was known as "the Red House".[15]

Timber

The shipbuilding towns along the lower reaches of the Housatonic experienced acute shortages of lumber at very early dates. In 1690 Stratford banned the transportation of timber from the town [16] and in 1696 Milford prohibited the cutting of any timber useful for shipbuilding without governmental consent. [17] Fortunately for the shipbuilders, there was more timber upstream on the Housatonic. One of the best known and largest of these reserves was "Mast Swamp" in Cornwall. It was full of tall, straight pines and furnished

many masts for shipbuilding.[18] These were cut and floated down the river to the builders at Derby and below.[19]

Masts were brought to New Milford and Derby in this manner from as far north as the towns of Great Barrington and Sheffield, Massachusetts.[20] The town of Newton voted in 1773 to grant the owners of a sawmill passage to the "Great River" as the Housatonic was once called, so that they could use it for transportation purposes.

Logging Problems

Evidence that logs were floated from Massachusetts is found on pp 27-28 of A History of The County of Berkshire, Part I, by Rev. Dewey. The existence of Mast Swamp in Cornwall is documented.[21] Unfortunately none of our sources mentioned any specific date during which the logging activity occurred. (See Appendix C)

The book Two Centuries of New Milford, Conn.[22] tells of a newly wedded couple traveling up the Housatonic to New Milford in 1738. At that early time the river was the only way heavy articles could be transported to the new settlements.

Mr. Peter Hubbell ran a ferry between Newton and Southbury beginning in 1730 that he maintained at least through 1751, can be shown by the records of his requests for fare increases.[23] (See Appendix D)

Exhibit 19

BIBLIOGRAPHY

1 Connecticut Woodlands, Vo. XXXIII, num. 1, The History of Land Use in the Housatonic Valley", Elwood Maunder, P. 10; Indians of the Housatonic and Naugatuck Valleys. Orcutt, P. 110.

2 History of Stratford and Bridgeport, Conn., Part I., Orcutt, pp 33-34; The White Hills of Shelton. The History Committee of the White Hills Civic Club, Inc. pp. 7-9. Memories of Old Derby, Sherwood. pp 118-119, 158, 173; The Housatonic, Puritan Oxford, Conn., Littlefield and Hoyt, p. 131.

3 The White Hills of Shelton., The History Committee of the White Hills Civic Club, Inc., pp. 7-8, Memories of Old Derby, pp. 118-158.

4 The History of the Colony of New Haven, Atwater pp. 28-39.

5 Three Centuries of New Haven, Osterweis, p. 23.

6 ibid, pp. 27-28.

7 The History of the Colony of New Haven, Atwater pp. 199-200.

8 The History of the Town of Old Derby. Orcutt and Beardsley, pp. 2-5. See also "The Trading House on the Paugassett", New Haven Historical Society Papers, Vol. IV. (See Appendix B)

9 Indians and the Housatonic and Haugatuck Valleys, Orcutt, p. 107; Public Records of the Colony of Connecticut, 2nd Vol. p 313; History of New Milford and Bridgewater, Orcutt, p. 16; The New Haven Historical Society Papers, Vol. IV, pp. 390-392.

10 Connecticut Woodlands, Vol. XXXIII, #1,"The History of Land Use in The Housatonic Valley", Maunder, p. 10.

11 The Hudson's Bay Company, The Hudson's Bay Company, p. 27.

12 The New Haven Historical Society Papers, Vol.IV, pp. 371-385.

13 The New Haven Colony. Calder p. 162, History of the Colony of New Haven, Atwater, pp. 189-192.

14 History of Milford, Conn., a Federal Writers Project, Work Projects Administration, p. 38.

15 History of Derby, Conn., Orcutt and Beardsley, p. 262; The White Hills of Shelton. The history committee of the White Hills Civic Club. p. 7.

16 History of Stratford and Bridgeport, Conn., Part I., Orcutt, p. 293.

17 History of Milford, Conn. Federal Writers Project of Work Projects Admin. p. 39.

18 A study of Cornwall, Waite, p. 2; Cornwall, Conn., Stove pp 566,267, 224.

19 A History of Cornwall, Conn. Starr, pp. 34-35; They Found A Way Sterry and Garrigus, p. 245; The Conn. Story, pp. 81-82.

20 A History of the County of Berkshire, Dewey, pp. 27-28.

21 Newton's History and Historian; Ezra Levan Johnson, Johnson. p. 24.

22 The Historical Society, p. 28.

23 Connecticut Archives Travel, first series. I: 174, 175, 254, 272, II: 172, 2nd series III: 8a, 9a.

Connecticut Woodlands, Volume XXXIII, Number 1. "The History of Land Use in the Housatonic Valley", By Elwood R. Maunder. 1953

Page 10

"They (the indians of the Housatonic Valley) used the river as a highway to the shores of the Sound..."

History of Stratford and Bridgeport Connecticut, Part I By Reverend Samuel Orcutt, published under the auspices of the Fairfield County Historical Society, 1886.

Pages 33-34

"The cove at the north end of the fields opposite the old Lemon Stone store and shipping house, was known many years as Huntington Landing (belonging to Stratford 150 years); and about half a mile up the river on the west side was the old Pootanuck settlement and fort; and a mile above it on the same side of the river was the new fort on what is still Fort Hill, while about a mile further up is the Indian Well. This Huntington and Derby Landing was a great shipping port for about one hundred years."

The White Hills of Shelton, By the History Committee of the White Hills Civic Club, Inc., Shelton, Connecticut. Published by The Pequot Press Inc. Essex, Connecticut, 1968.

Page 7

"The saw mill that prepared the lumber for the Leavenworth Shipbuilding Yard was on Indian Well Brook in back of the Red House. The logs, oak and white pine, were cut on White Hills and the ships were built on the riverbank. The "Anaconda" was the first vessel built there in 1760. The

type of ship built by the Leavenworths was known as "Boston Coaster" and was used for trade with Boston, the southern plantations and the West Indies. At one time molasses, sugar, and rum were brought up the river on these coasters. Cotton from the South was used in trade with the West Indies; grain, potatoes, hardwoods, cattle, and swine were shipped to the West Indies from there on these ships."

Page 9

"In 1716, Sergeant Joseph Hawkins of Derby was granted liberty by the General Assembly to establish a ferry across the river; hence the name Ferry District in Shelton."

The Housatonic, Puritan River, by Chard Powers Smith. Rinehart and Company Inc. New York, Toronto, 1946.

Page 248

"An ominous event for the old shipbuilders was the apearance on the river in 1824 of the steamboat General Lafayette from New York, comfortable paddling its way up to Derby before a holiday crowd on the banks."

Page 423

"The Housatonic is navigable to Derby and Shelton where the Naugatuck has its juncture, is from 5½ to 6½ feet (in Colonial days it was reported as 15), but on account of the crooked channel commerce is usually carried by tidal navigation, barges going upstream at flood tide."

Page 425

By 1911, the river traffic below Derby had diminished to tugdrawn barges, and small passenger steamers that plied between Bridgeport and Derby. At New Milford also there was a tiny, sidewheeled steamer 'not much larger than a row boat...'"

Memories of Old Derby, by Albert F. Sherwood. Published by the Sarah Riggs Humphrey's Chapter, Daughters of the American Revolution, Derby, Connecticut., 1924.

Page 118

"The first ferry was established at this point (near the glen that leads up to Indian Well) in or near 1775. The Derby end of the ferry was at "Old Field" a level tract of land on the river bank above Derby Neck..."

"Edmund Leavenworth., a descendant of the first Thomas was born in 1776 and lived in Derby and in Huntington until his death in 1856, aged 90. As a boy he worked for his who had a shipyard at that place and built many small vessels. Edmond also tended the ferry."

Page 119

"The vessels built at this early shipyard were small, not more than 60 or 80 tons, but they went back and forth between Derby and the West Indies with little danger, and a very important part of their cargoes was rum."

Page 158

"The Companies' (The Derby Building and Lumber Company) schooner was commanded by a resident, Captian C.H.Bailey, whose mate, crew, and cook, were four sons. The getting under way of this schooner was also quite an event to us boys in those days. Albany was to us a long way off and we envied this boy crew their knowledge of the world."

Page 173

"The Mill (Iron and Steel Works) was in its fullest tide of prosperity during the period of the civil war and the years immediately following. Scrap and peg iron, also coal for its use, were brought in schooner loads to Derby docks, ..."

History of Milford Connecticut, Compiled and written by the Federal Writers Project of the Work Projects Administration for the State of Conn. Braunworth and Company, 1939.

Page 25

Reference to Moses Wheeler's Ferry

Pages 38-39

Shipping from Milford Harbor

Page 46

Reference to Oronoque Ferry (4 miles north of Stratford Ferry)

History of the Town of Oxford, Conn. By Norman Litchfield and Sabina Connolly Hoyt, 1960.

Page 95

"After the settlers had established themselves at Oxford, clearing their lands and building roads over a period of some 70 years, from about 1680 to 1750, they began to have crops and livestock over and above the needs of their own families, and found an outlet for the supplies in water-borne commerce with Boston, New York and other colonies and with the West Indies, through the port of Derby. That town being the head of navigation of the Housatonic was considerably nearer to Oxford, Woodbury, Newton, etc. than Bridgeport or New Haven."

Page 131

"The first use of steam for transportation was on boats. While of course, neither sailing bessels nor steamboats could come up the river as far as Oxford, they could come to Derby, ... The name of the boat comming to Derby was the 'General Laffayette'; a small vessel built with a mast and a bowsprit, and propelled by side paddle wheels... It was owned by a company in New York, who planned to run it regularly between that city and Derby... Other attempts were made to furnish steamboat

transportation between Derby and New York, eight vessels, at one time or another plying between the two places as late as 1879."

"Sailing vessels continued well after the comming of the 'General Laffayette', it being recorded that in 1838 packets of 80 tons plied the water weekly between Derby and New York, carrying wood and ship timber, the river having about 10 feet of water at Derby Landing."

The New Haven Colony, Calder. New Haven, Yale University Press, 1934.

Page

"More darring than the ironworks was the attempt to build trans-Atlantic vessels on Long Island Sound. As early as 1644 Theophilus Eaton, Stephen Goodyear, Richard Malbon, Thomas Gregson, and perhaps other merchants at New Haven intrusted the construction of an ocean going vessel to John Wakeman, Joshua Atwater, Jasper Crane, and Richard Miles. Though ill-built and very 'walt sided', in due course the ship was completed. Entrusted with a cargo of wheat, peas, hides, beaver, and peltry and manuscript writings of John Davenport at New Haven and Thomas Hooker at Hartford, about the middle of January, 1646 the vessel ploughed its way through three miles of ice in New Haven Harbor and tackled the stormy Atlantic..." "...but the vessel itself never reached its destination nor returned to its port of departure."

History of the Colony of New Haven, Atwater.

Pages 189-190

"The leading men at Quinnipiac, having been engaged in commerce before their emigration, endeavored to make their new plantation a commercial town. Trade was soon established with Boston, New Amsterdam, - as New York was then called - Deleware Bay, Virginia, Barbadoes, and England. "

"Supplies from the mother country came chiefly by way of Boston; for the three ships which in 1639 sailed direct from England to Quinipiac were exceptions to the custom that emigrants into New England landed in Massachusetts. If the tide of emigration had not ebbed so soon after the settlement was made at Quinnipiac, ships from England might have cast anchor in its 'fair haven' with such frequency as to render the plantations in the neighborhood of Boston as a base of supplies. But,

as it happened, small vessels owned in New Haven, and navigated by her seamen, sailed frequently to and fro between the two ports. Doubtless they sometimes returned home freighted with merchandise purchased of Massachusetts men; but there is evidence that New Haven Merchants imported and exported by way of Boston, sending their beaver and other furs to be transfered to the ships which had brought them English goods."

Pages 191-192

"To the same market (Manhattan)they conveyed their imports from the West Indies, such as cotton, sugar, molasses, and 'strong water' completing a cargo with such products of their own neighborhood as wheat, biscuit, beef, pork, hides, and furs."

"Stephen Goodyear, who in the prosecution of the commerce between the two towns often visited Fort Amsterdam, purchased there of the Dutch govenor a ship called the Zwoll, to be delivered in the harbor of New Haven."

Page 208

"A company was formed in which apparently all who were able took more or less stock. This company called the 'ship fellowship' bought or built a ship which they made ready for sea in January, 1646. She was chartered for a voyage to London, by another association called 'The Company of Merchants of New Haven.' The feoffees of the ship - fellowship were Mr. Wakeman, Mr. Atwater, Mr. Crane, and Goodman Miles. The company of merchants consisted of 'Mr. Theophilus Eaton (now Govenor) Mr. Stephen Goodyear, Mr. Richard Malbon, and Mr. Thomas Gregson. Vinthrop says, 'she was laden with pease and some wheat, all in bulk, with about two hundred West Indies hides and store of beaver and plate, so as it was estimated in all at five thousand pounds.' "

Three Centuries of New Haven, Oster Weis.

Pages 27-29

Deleware Valley information

Page 30

"The New Haven merchants also seem to have made a thrust toward the Northeast. Winthrop tells in his diary of their purchase from the natives of lands 'within 10 miles of Fort Orange (Dutch Miles)' in 1646, and of a protest filed with him as governor of Massachusetts by the Dutch authorities."

History of New Haven County, Vol. II. Edited by J.L. Rockey, assisted by a corps of writers, New York, Preston and Co. 1892.

Pages 366-367

"The conditions of the locality also led to the selection of Birmingham Point as a trading post with the indians in 1642. The store-house for that purpose was put up by workmen employed by Mr. John Wakeman, of New Haven Colony. The news of this step coming to the ears of the Dutch at New Amsterdam (New York) , caused the governor, William Kiefft, to send a letter to Governor Eaton in 1646, protesting against it as an encroachment upon their territroy. In reply Govenor Eaton pointed out the fact that the Dutch erred in the knowledge of geography, as Paugasuck country was many leagues away from anything they could rightfully claim, and that the indians were as free to trade with the New Haven Colonists as with anyone else. The matter was then allowed to rest without any further serious objection from the Dutch, who had evidently really believed that this valley was a tributary to the Hudson River, and hence part of their territory. But the English determined to put their claim in better shape. Accordingly Stephen Goodyear and others interested in

this trading post, purchased lands from the Indians, and the general court in 1646 voted to make good their title at the trading house."

"It appears that the post was continued with so much success by Goodyear, Wakeman and their associates, that its permanency was assured, and, in the course of a few years, it began to partake of the character of a settlement, which it deemed proper should be placed under the jurisdiction of some of the adjoining towns."

The History of the Old Town of Derby. Sam Orcutt and Ambrose Beardsley.

Page 2

In 1642, four years only after the settlement of New Haven, some workmen were employed by John Wakeman of New Haven within this territory, now known as Derby, byt then called Paugasuck by the Indians, and afterward named Paugassett by the English, and because thus employed, they were excused from standing night guard for the protection of New Haven. The object of Mr. Wakeman in this work appears to have been the building of a trading house for the establishment of direct mercantile relations with the Indians in the valleys of these rivers, and perhaps to secure trade with the Mohawk Indians also."

"This trading house was protested against by the governor of New York in 1646. The English title to the post was confirmed by the Governor of New Haven."

Page 5

"This house (the Trading House) stook on the east side of Birmingham Point, and the vessels sailed up to it, for trading purposes, as the bed of the Naugatuck River passed close to the bank at that time."

Three Centuries of New Haven 1638 - 1938 Rollin G. Osterweis, Yale University Press, 1953.

Page 25

"Another addition to the New Haven Colony, although one which did not mature into a town during this period, was the village of Paugassett, later renamed Derby. During the spring of 1642 Stephen Goodyear, John Wakeman, and Mathew Gilbert, all New Haven merchants purchased this territory north of Milford. Twelve years later the New Haven trio sold out to a group from Milford, who shortly after placed the village of Paugassett under the control of the New Haven Colony."

Calder; The New Haven Colony New Haven, Yale University Press, 1934.

Page 162

"To the wharves and warehouses of Stephen Goodyear, John Evarse, Richard Malbow, Nathanial Terver, and George Hamberton at New Haven, Alexander Bryon at Milford and other leading merchants of the colony came the surplus products of the region; peas, flour, biscuits, malt, livestock, dairy products, beef, pork, hides and leather, furs and skins, shingles, clapboards, and pipestoves, fish, the products of the whale, the crude work of the artisans, and wampum."

Bacon's New Haven Records. Digest of New Haven Records. Town, Court, and Probate.

Page 86

"He (Stephen Goodyear) had a trading house on the Housatonic on an island called Goodyear's Island perhaps two miles below the mouth of Aspetuck Brook in North Milford - - He died in London in 1658."

History of Stratford and Bridgeport Connecticut, Samuel Orcutt, 1866.

Page 27

"The island was named Goodyear's Island from the fact that Mr. Stephen Goodyear of New Haven about the year 1642 built a trading house upon it or near it, for purposes of commerce with the Indians."

History of New Milford and Bridgewater Connecticut. Orcutt.

Page 446

"Sixty years before this, in 1644 or 1645, Mr. Stephen Goodyear had built a trading house on Goodyear's Island at the cove below falls mountain where for sometime he traded with the indians, specifically to obtain furs."

Page 74

"Goodyear's Island: is in the Housatonic River just below falls mountain, and was so named about 1646 from the fact that Mr. Stephen Goodyear, one of the leading merchants of the New Haven Company, erected here a 'trading house' for purposes of trade with the Indians."

The Housatonic, Puritan River, by Chard Powers Smith. Rhinehart and Co. New York, Toronto, 1946.

Page 52

"By 1642 Mssrs. Wakeman, Goodyear, and Gilbert of New Haven had sailed or paddled thirteen miles up the river and built a trading post at Paugasset, or Derby. In 1644 Goodyear paddled or poled his way up thirty miles farther of mostly fast water and built a large post on what is now Goodyear's Island, just below the Lover's Leap rapids and the big fishing cove at Weantinock, or modern New Milford."

Exhibit 19

History of New Milford and Bridgewater, Orcutt.

Page 16

"The deed by which Mr. Reed and his associates claimed possissions in New Milford, was given by the Indians as follows, recorded at Stratford:

'Be it known to all Christian people, Indians, and otherw whom it may concern, that I Pocono, and Ringo, and Quoconoco, and Whimta, who are right owners of one Island in the great river Oantcnock, where Mr. Goodyear had a trading house, and also the lands on both sides of the river, we do by this present writing grant ..... unto Henry Tomlinson of Stratford, the above mentioned island and the land on both sides of the river, three miles down the river which amounts to seven miles in length, and accordingly of each side of the river three miles in breadth, which amounts to six miles in breadth ; all which tract of land and island, to have ... we confess to have received one piece of cloth and other good pay to our satisfaction, April 25, 1671.'"

Indians of the Housatonic and Naugatuck Valleys, Orcutt. Hartford Conn. Case, Lockwood and Brainard Co. , 1882.

Page 107

"There is a small island in the Housatonic below Falls Mountain, and below the fishing place now overgrown with alders and other small trees. It was probably made by the washing out of the gorge through the mountain."

"In 1642 Mr. Goodyear of New Haven, with Mr. Wakeman, established a trading house on what is now Birmingham Point, in Derby, Conn., and in addition must have built one about the same time on this island at what was then Metichawow, for there was no other person by that name engaged in trade with the Indians, so far as known, before the deed of 1671, which informs us that this was 'Goodyear's Island' and once had a trading house on it."

Exhibit 19

8.

Public Records of the Colony of Conn. Vol. II, by Harmond Trumble Hartford, F.A. Brown, 1852.

Page 313, note.

"Deeds to Harry Tomlinson, of an island in, and of lands on either side of Oantenock River, -- extending more than seven miles in length, six in breadth, -- were given in April and July 1671, by Pocono, Renayo, Quoconecoe and Whanta, -- and by Perainos and Carhapotous, -- the professed Indian propiators. These deeds are recorded in Col. Rec. of Lands, I:421."

EXHIBIT 19

9

THE TRADING-HOUSE ON THE PAUGASSET.

By Rev. William G. Andrews, D.D.

[Read October 18th, 1886.]

The great historian, Diedrick Knickerbocker, in the twelfth chapter of his fourth book, describes certain soldiers as "worn out with constant campaigning," at about the year 1646. Nevertheless, some of those same soldiers are at this moment drawn up in line of battle, and vigorous enough to be not only reviewed but interviewed, a far more trying experience. For the "standing army" which our historian celebrates, being the one commanded at this period by William Kieft, Governor (or Director) of New Netherland, consisted of "the four and twenty letters of the alphabet." These warriors were arrayed, as we learn, in "bad Latin, worse English, and hideous Dutch." The particular battalion which we are about to inspect and interrogate (along with that led out against it), originally wore the dress in which the troops of Julius Cæsar still threaten the peace of studious youth at the Hopkins Grammar School. But it now wears an English uniform, and as that must have been manufactured at New Haven, it is no fault of Director Kieft if it is worse than the Latin, and it probably is not.

On the third of August, 1646 (new style), Kieft wrote as follows, in words quoted before you seven years ago, by our present presiding officer:* "To thee, Theophilus Eaton, Gou'nor of the place by us called the Red Hills in New Netherland, (but by the English called New Haven)." These words indi-

* *New Haven Hist. Soc. Papers*, iii. 272.

cate the general ground of controversy between the English and the Dutch colonists. For Kieft's New Netherland stretched far beyond the Red Hills, and even the Red Island (called Rhode Island by Yankees speaking bad Dutch), to New Holland, or Cape Cod.* But the Director had lighted on a new grievance. "Because you & yours," he proceeds, "have of late determined to fasten your foote neere Mauritius Ryver in this Province, & there not onely to disturbe our trade of noe man hitherto questioned, & to drawe it to y^r^selves but utterly to destroy it, we are compelled again to ptest & by these p^r^sents we doe ptest against y^u^," etc. Governor Eaton replied, under date of August 12, (old style): "We know no such Ryv^r^," (as the Mauritius), "neither can we conceave what Ryu^r^ y^u^ intend by that name, unlesse it be that w^ch^ the English have long & still doe call Hudson's Ryu^r^." Denying all intrusion, past or present, he adds: "It is true we have lately upon Paugaset Ryu^r^, w^ch^ falls into the sea in the midst of these English plantacons, built a small house within o^r^ owne lymitts, many miles, nay leagues from the Monhattoes, from yo^r^ trading house and from any part of Hudson's Ryu^r^, * * * nor did we build there till we had first purchased a due tytle from the true proprietors."†

167

Governor Eaton undoubtedly believed, and was right in believing, that Kieft's complaint related to this establishment on the Paugasset. But the river Paugasset is hardly more familiar to us than the Mauritius was to Eaton. Accordingly the site of the trading-house has been placed at a variety of points by careful historical students. Mr. Savage, the editor of Winthrop's Journal, puts it at Derby;‡ the historian Hildreth, "high up the Housatonic, near a hundred miles in the interior," or about the present site of Stockbridge;§ Dr. O'Callaghan, the early editor of the colonial documents of New York, at Springfield.‖

* *New York Hist. Coll.*, New Series, i. 274, 292, etc. *New Haven Hist. Soc. Papers*, iii. 443.

† Hazard's *Hist. Coll. of State Papers*, ii. 55–6. *New Haven Col. Rec.*, i. 265–6, and note.

‡ Winthrop's *History of New England*, Savage's ed., ii. 328, (modern paging).

§ *History of the U. S.* (N. Y. 1880), i. 434.

‖ *Docs. rel. to Col. Hist. of N. Y.*, i. 284, note.

As recently 1881 the opinion has been expressed that Kieft's letter probably refers to Springfield and Eaton's to Derby.*

I do not hope to deal exhaustively with the question as to the true locality, and my apology for offering the society a probably incomplete recital of the facts must be that for years an account has been looked for at the hands of a gentleman who is of all men best fitted to prepare it, but who has thus far been occupied with more important tasks, and that I am assured that such an account as I can give will now be accepted, for lack of a better. And although what I believe to be the correct answer was not long ago made public, there is ample room for an orderly statement of the evidence, and the archives of the society ought to contain something like a summary of what is known with regard to the matter.

Our first business is to get as much information as we can out of what the governor of New Netherland and the governor of New Haven said to each other, in order to avoid reaching conclusions in conflict with what they must have known. Beginning with Kieft's letter, we find him complaining of some recent enterprise of the New Haven people which seriously threatened the Dutch trade with Indians living in the region bordering on the Mauritius, or Hudson, river. This river was often called Mauritius by the Dutch, in honor of their great captain and stadtholder, Prince Maurice of Orange, son of William the Silent,† as was the island, still known by his name, in the Indian ocean. Now, as far as a mere approach to the Hudson was concerned, the English had advanced westward along the coast to Rippowams, or Stamford, in 1641, five years earlier. And Kieft's complaint of a fresh aggression, upon a trade before unmolested, suggests a subsequent movement towards the Hudson at some point farther north. The principal trade of New Amsterdam was with the tribes on the upper Hudson, and had it been possible to divert that permanently to New Haven the Dutch would have been almost ruined. In fact New Amsterdam was almost ruined already by wars with the

* *N. Y. Col. Hist.* (as last ref.), xiii. 21, note.

† *Doc. Hist. of N. Y.*, iii. 27; Hildreth's *U. S.*, i. 137.

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natives, for which Kieft himself was largely responsible. The Indians for a hundred miles above the mouth of the river had never been very friendly, and the trade "of noe man questioned" had been very vigorously questioned a year or two before by those just north of the Highlands. Peace had been made in August, 1645, but the Dutch hold on much of the trade was precarious, and Kieft must at this time have been particularly jealous of English competition.* His protest, then, makes it probable that the new line of communication opened by New Haven led northwest, in the direction of some point as far north as the Highlands.

Turning to Eaton's letter, his admission that "a small house" had been built "lately upon Paugaset River," reminds us that in 1642 two residents of New Haven were "excused frō watching for the present because of their imploymt att Pawgasett."† Paugasset was the Indian name of Derby, and one of the historians of that town tells us that these men were employed "on what is now Birmingham Point."‡ As no permanent settlement, apparently, was made here for a number of years,§ it is probable that the place was first occupied for purposes of trade, and the theory of Mr. Savage and others that the trading-house mentioned by Governor Eaton was at the junction of the Housatonic and the Naugatuck looks plausible. But the establishment at Paugasset was in 1646 at least four years old, or half as old as New Haven itself, and would scarcely have been referred to either by Kieft or Eaton as recent, while it is unlikely that Irving's "William the Testy" would have borne even an imaginary wrong in silence for four years. Derby, moreover, is much farther from the Hudson than Stamford, and is not far enough inland to have had much more effect on the Dutch trade than the coast towns of Milford and Stratford, ten miles below. And as Eaton merely says that the trading-house was on the river Paugasset, he leaves us free to look beyond Derby.

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* Ruttenber's *Ind. Tribes of Hudson's River*, 63-4, 94, 111, 118, 120; Hildreth's *U. S.*, i. 423-4, 431.

† *New Haven Col. Rec.*, i. 74.

‡ Orcutt's *Ind. of West. Conn.*, 16. 107.

§ *N. H. Col. Rec.*, i. 77, 148, etc.

The river in question might, as far as the name defines it, be either the Housatonic or the Naugatuck. The latter was apparently sometimes called Paugasset,* and Mr. Brodhead, the historian of New York, supposes that such is the case here.† But the Housatonic was generally meant when this appellation was used,‡ and Eaton's statement that the river "falls into the sea" applies in strictness only to the Housatonic. It was known by half a dozen different names during the colonial period. And a glance at the map will show that a movement up this stream from Derby would have had a north-westerly direction to a point in the lower part of Kent, where it almost touches the New York line.

Governor Eaton's description of the post as "within o' owne lymitts" open a wide field for conjecture. He could hardly mean the limits of the New Haven jurisdiction, for since the colony had neither charter nor patent, its boundaries were defined only by the successive purchases made from the natives, and the site of the trading-house was not within the jurisdiction until after it had been bought. The limits spoken of must be those of what the writer calls "these English plantacons," including the New Haven towns east of the mouth of the Housatonic, and the Connecticut towns west of it. He may have had in mind either the boundaries named in the New England patent of 1620, to which he appealed a year later,§ or those of the so-called "Warwick patent" of 1632, which embraced the territories of both New Haven and Connecticut. To the north the settlers might, in their commercial ventures, have paused at the Massachusetts line, if they knew where it was. But to the west, as far as this phrase of Eaton's guides us, we are free to look for them at Chicago, or on the northern shores of the Great Salt Lake, or on the coast of California. But we are already confined to the Housatonic, which we observe, finally, does its best to uphold Governor Eaton in placing the trading-house "many miles, nay leagues,"

* *Derby Records*, i. 39 (MSS).

† Brodhead's *Hist. of the State of New York*, i. 428.

‡ *N. H. Col, Rec.*, ii. 222.

§ *N. H. Col. Rec.*, i. 508.

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from the Hudson. Even at Kent the distance between the two streams a little exceeds twenty miles, and Eaton may easily have supposed that it was everywhere greater. When Kieft affirmed vaguely that New Haven traders had come "neere Mauritius Ryver" he probably depended on information of doubtful accuracy, derived from the natives.

Combining the evidence supplied by our two primary authorities we have grounds for thinking it likely that the post in question was on the Housatonic somewhere between Derby and the southern boundary of Massachusetts.

But there are other contemporary references to this New Haven enterprise in both Dutch and English documents. Giving the Dutch the priority as the aggrieved parties, we have, first, a letter from the directors of the West India Company in Holland. It was written near the close of the year 1646, and was addressed to Peter Stuyvesant, who had already superseded Kieft. The writers urge the breaking up the obnoxious establishment by the use of all means which would not involve war, and they speak of it as situated "10 leagues from Fort Orange," or Albany. If this estimate could be trusted it would require us to look for the trading-house in the region in which Hildreth places it, near the headwaters of the Housatonic, in Berkshire county. But it is not trusted by the editor of the volume which contains the document, for he thinks Springfield, 102 miles from Albany by rail, the probable site of the post.* We need not hesitate, therefore, on the score of distance, to continue our search within the limits of Connecticut, only looking as far north as other evidence permits. In dealing with all such estimates at this period, we have to make allowance both for imperfect knowledge of geography and for the temptation to which that fact would expose the parties concerned, to make their guesses favor their own interests.

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In the year 1647 several letters passed between Stuyvesant and the New Haven authorities. In one of them the former indignantly denies a charge spoken of by Eaton that he (Stuyvesant), had threatened to destroy the trading-house.† That

* *N. Y. Col. Hist.*, xiii. 21 and note. † *N. H. Col. Rec.*, i. 511, 521.

such an attempt should have been thought of by anybody increases the improbability that Derby, ten miles from New Haven, and within reach of prompt relief, was the locality which we are looking for.

About two years later, or in 1649, we find a statement appearing in substantially the same form in two or three Dutch documents. As made in a "Remonstrance" addressed to the home government in the name of "the People of New Netherland," it is to the effect that "the English of New Haven have a trading post situate to the east or southeast of Magdalen island, at no greater distance than six leagues from the North river." The island is described as about seventy miles above Fort Amsterdam, and the sole design of the English is declared to be "to attract or wholly destroy the entire trade of the North river."* Magdalen island is in fact ninety-nine miles from the railway station in Forty-second street, New York, and therefore more than a hundred miles from Fort Amsterdam, at the Bowling Green.† It lies half a mile below Tivoli, in the upper part of Duchess county, and the village of Madalin, near by, perpetuates the name, with a variation. This serious inaccuracy with regard to the length of a line within the Dutch territories, relieves us from the necessity of looking for the trading-house at a point within "six leagues" (or eighteen miles), from the Hudson, which we evidently could not find on the Housatonic. We ought, however, to prosecute our search as near as may be to the westernmost bend of that river. And this we are encouraged to do by finding that in two years the distance of the post from Albany has considerably increased. The Directors in Holland made it ten leagues, or thirty miles, but Magdalen island is itself more than forty miles south of Albany, and a point due east, near the Connecticut boundary, would be still farther. The writer of the Remonstrance, however, was not sure whether the true direction was east or southeast, and it is not difficult to show that it was

* *N. Y. Col. Hist.*, i. 284; cf. *N. Y. Hist. Coll.*, New ser., i. 274; O'Callaghan's *Hist. of New Netherland*, i. 375.

† Letter from Rev. G. L. Platt; *N. Y. Hist. Coll.*, New ser., i. 464–5.

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probably the latter. Magdalen island lies near the southern limits of the Mohicans of the upper Hudson. These Indians seem to have been less unfriendly to the Dutch than those below them on the east bank of the river, especially than those between their territories and the Highlands.* The latter, having taken an active part in the recent hostilities, would have been much inclined at that time to welcome English offers of trade. If a trading-house were established on the Housatonic where they could reach it most easily, it must have been southeast from Magdalen island, while the Mohicans near that island would be among the first to hear of it, and would probably be the first from whom the Dutch boats moving up the river would get the information. The mention of the island as the point from which the direction was reckoned is thus naturally accounted for, and accepting the alternative which the writer of the Remonstrance leaves open to us, of southeast instead of east, we are guided down the Housatonic from the Massachusetts line, towards some point readily accessible to the Indians of central and southern Duchess. The indications thus far are not definite enough to enable us to fix the place, but as New Haven itself lies southeast of Magdalen island, we may as well bear in mind that a line connecting these two points would cross the Housatonic in the present town of Kent, and run nearly parallel to its course through New Milford.

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Contemporary evidence of English origin within my knowledge is less abundant, but rather more definite. Less than a month after the date of Eaton's letter, or on the 9th of September, 1646 (old style), the Commissioners of the United Colonies (Washington Irving's "Great Amphictyonic Council of the Pilgrims"), met at New Haven. Governor Eaton presided, and his correspondence with Director Kieft was laid before them. They approved, as might have been expected, of Eaton's course, and so informed Kieft. A few words of the latter's reply to the Commissioners are worth repeating, partly because they show how formidable a competitor New Haven seemed to New Amsterdam, but chiefly because they display a

* *Inds. of Hud. Riv.*, 41; Moravian authorities.

modesty seldom exhibited of late. "We receiued," he writes, "such an anfswere to our Protest from the inhabetants of Newhaven as we expected, the eagle alwaies despiseth the Beetle fly."* This tribute from the ruler of the island of Manhattan, however, gratifies us more than it instructs us; it supplies no information about that secluded nest of the eagle which had enraged the beetle. But new light, some of it undoubtedly imparted at this meeting of the Commissioners, comes to us from the opposite direction, as light is in the habit of doing, namely from Boston. Governor Winthrop was not one of the Commissioners in 1646, but he must have known of their proceedings from John Endecott and Herbert Pelham, who represented Massachusetts. He had also, apparently in advance of the meeting, the benefit of a letter from Director Kieft, setting forth his grievances. In the "History of New England," the matter is twice spoken of. The first time Winthrop writes: "The merchants of New Haven had purchased some land of the Indians about thirty miles to the northwest of them upon Pautucket river, and had set up a trading-house. The Dutch governour made a protest against it, and sent it to Mr. Eaton, claiming the place to be theirs, and within ten Dutch miles of Fort Orange." The last statement, it may be observed, was not made in Kieft's letter to Eaton, but probably had been made to Winthrop. In his second reference to the subject, Winthrop says that the trading-house was "upon a small river some thirty miles up into the country, and some fifty miles from Fort Orange."†

The name Pautucket, which the Massachusetts governor gives to the river, is supposed by his editor, Mr. Savage, to be written by mistake for Pequusset, or Pegusset. This is plausible, since Eaton calls the stream Paugasset. But Dr. J. H. Trumbull gives us another Indian word as "the equivalent" of Pautucket, and one much more readily transformed into it, if it were caught by sound, namely, Potatuck.‡ And Potatuck

* Hazard's *State Papers*, ii. 54-7, 68-9.
† *Hist. of N. E.*, ii. 328, 338.
‡ *Ind. Names in Conn.*, 56.

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was a name long in use for the lower Housatonic,* and likely to be so used by Winthrop's informants. On this point then, the two governors are in agreement; their river is the Housatonic. The distance of the post from Fort Orange, as first given, "ten Dutch miles," corresponds to the "ten leagues" of the letter from Holland, at the close of 1646, one Dutch mile being equal to three English, or to one league. The addition of twenty miles in the second reference, harmonizes more nearly with the Dutch estimate of 1649. But if Winthrop is right in putting the trading-house "about thirty miles" from New Haven, even fifty miles is too little for its distance from Albany, which is more than one hundred miles from New Haven, as the crow flies. And we may safely assume the substantial correctness of the first statement, since on this point Winthrop's ultimate authority must have been the New Haven merchants, who knew very well where their trading-house was. We now know, too, that it lay to the northwest, and remembering that by the old post-road it is thirty-six miles from New Haven to New Milford, we find ourselves led from this side into the same region to which we made our way, more doubtfully, from Magdalen island.

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Another point which has to be considered is the possibility of a serious inroad upon the trade of the Hudson from any locality on the Housatonic. And here the records of the same meeting indirectly help us. The Commissioners, we are told, "thought fit to examine Wotchibrok, a Potatuke Indian," who had accused the great Connecticut sachem, Sequasson, of hiring him to murder some one of three Hartford magistrates, two of whom were now among his examiners. When the murder had been committed he and Sequasson were to take refuge with the Mohawks, "but on the way when they came to the Wampog Indians he should give it out that Unkas had hired him" and so bring the wrath of the English upon their famous Mohegan ally, who was Sequasson's enemy.† Mr. DeForest calls Wotch-

* Cothren's *Ancient Woodbury*, i. 11; *N. H. Col. Rec.*, ii. 491; *Ind. Names in Conn.*, 56.

† Hazard *State Papers*, ii. 61.

ibrok "a liar and a villain,"* and this description appears to be entirely accurate. But it is quite possible, and is often advantageous, for a liar to tell the truth incidentally, and all that concerns us is what he, as a Potatuck, says about the Wampogs. The Indians known to the settlers as Potatucks were those of the Potatuck, or Housatonic, valley, above Derby, and at a later date those especially of the present Southbury and Newtown.† For those between Derby and the sea other names were in use among the English, and Wotchibrok's original residence may be supposed to have lain to the northwest of New Haven, though his field of usefulness was evidently a wide one. The Potatucks, however, were closely connected with the inhabitants of other villages along the river, and it has been inferred from the evidence of deeds that they were the principal tribe of the region,‡ and even that the name belonged to all the Indians of the Housatonic valley as far as the Massachusetts line. The European habit of designating the natives by the particular localities which they occupied undoubtedly creates an appearance of tribal distinctions where none existed. But Potatuck itself was one of these local names, and we may more reasonably infer that the Indians of the lower Housatonic were united in a common organization, however loose, under some other name than Potatuck.

And who were the "Wampog Indians"? Their territory was to be traversed in a flight from Hartford to the Mohawk country, west of Albany. Flight in a direct line would therefore have taken the fugitives through Western Massachusetts. But Wampogs are assumed in Wotchibrok's story to have been in communication with the English, to whom they are expected to repeat his slander of Uncas, and we naturally look for them farther south. It is natural, too, to suppose that Wotchibrok would have represented himself, when going into exile, as taking his own kinsmen on the way, and by avoiding Farmington he could have easily reached them unobserved. At what pre-

* *Indians of Conn.*, 222.

† *Ind. Names in Conn.*, 56; *Anc. Woodbury.*

‡ *Anc. Woodbury*, i. 86; *Inds. of West. Conn.*, 101, 198.

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cise point on the Housatonic they lived we can only guess, but the Potatuck territories certainly extended, afterwards, many miles above Southbury. At all events, the Wampogs, being known to the English, probably lived not far from the western border of Connecticut.

Now a hundred years later we find the Moravian missionaries describing nearly all the converts in the Housatonic valley, from Southbury, or "Potatik," to Kent, as Wampànoe, or Wampanoags. Those living in the upper part of Duchess county, on the other hand, are almost invariably styled Mohicans.* The Moravians are excellent authority as to the names which the natives applied to themselves, and we may be tolerably sure that before the middle of the last century those whom they found on the Housatonic generally called themselves Wampanoags. It is a legitimate inference that their ancestors had done the same, and that we have in Wampog merely an English variation of the native tribal name. In that case our Potatuck friend was himself a Wampanoag, and in hastening through the Wampog territory, he was paying a flying visit to his own people.

But the name Wampanoag, or Wampano, is identical with that which the Dutch pronounced Wappinger, and which was their name for the Indians established south of the Mohicans, especially those of central and southern Duchess.† The two tribes appear together in our records, as Wabingas and Morhicanders.‡ The former name survives in Wappinger's creek, emptying into the Hudson a few miles below Poughkeepsie; in Wappinger's Falls, a village on this stream; and in the township of Wappinger, formed some years since from the northwestern part of Fishkill. The original word, meaning Eastlanders, had a far wider application,§ but its specific use in New York, as the name of the Duchess county Indians, is what now

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* Bishop de Schweinitz, *Life of Zeisbergea*, 117, note; *Memorials of Morav. Ch.*, i. 144–53; *Moravians in N. Y. and Conn.*, 9, 72, 159, 164–6. cf. Loskiel and Heckewelder.

† *Ind. Tribes of Hudson River*, 370–1.

‡ *Conn. Col. Rec.*, ii. 506, note.

§ *N. Y. Hist. Coll.*, New Series, i. 206, 294–5.

concerns us. And from that fact, together with others which have been stated, we may fairly infer that the Potatucks were essentially one with a tribe which extended to the Hudson, and that the trading-house, being within their territories on the Housatonic, would sensibly affect the trade of the Dutch on their own river.

Dismissing contemporary documents, we find other indications, most of them belonging to the seventeenth century, which point to habitual intercourse between the Indians of the Housatonic and the Hudson, and which guide us more or less clearly towards a particular locality. In 1683, as I infer, and no doubt much earlier, a trail led from the mouth of Fishkill creek, just above the Highlands, to the Housatonic. Its course eastward from Whaley pond, the source of the creek, is not stated by my authority,* but as far as I can judge from the map, the shortest line from the pond to the river, a line twelve or fourteen miles in length, would meet the river in the lower part of New Milford. This evidence is a little indefinite, but it certainly strengthens the probability that a trading-post in that neighborhood would soon have been visited by Wappingers from the Hudson.

The proofs which Indian deeds often furnish of intercourse and relationship between scattered native communities could not be abundant in the present case. We are told that "there is but one perfect transfer title on record" for lands owned by the Wappingers along the Hudson.† This deed, given in 1683, and conveying to Francis Rombout and Gulian Verplanck the territory lying between Fishkill and Wappinger's creeks, and extending nearly half-way to the Housatonic, does, I think, furnish one item of evidence not without value. Among the signers appears an Indian called Peapightapieuw, whom it is hard not to identify with Papetoppe, the sachem whose name heads the list of grantors in the first deed given, about twenty years later, or in 1702, to the settlers of New Milford.‡ It is

* Hon. J. J. Monell, *Washington's Headquarters*, etc., 72.

† *Ind. Tribes of Hudson River*, 84.

‡ Brinckerhoff's *Hist. of Fishkill*, 52–3; Orcutt's *Hist. of New Milford and Bridgewater*, 6–7.

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as natural that a Wappinger, or Wampano, of the Housatonic, should be concerned in granting lands which lay within fifteen or sixteen miles of his wigwam, as that various Potatuck sachems should sign, as they do, deeds together conveying half the Housatonic valley. This signature, therefore, may fairly take its place among the minor proofs of relationship between the native proprietors of New Milford and Fishkill.

But the repeated references in the Dutch accounts of the trading-house, to Fort Orange, suggest that the English had established themselves at some locality in communication with that important post, though certainly farther from it than the Dutch imagined. Interference in that quarter would have been a much more serious matter than interference in the territories of the unfriendly Wappingers, and a New Haven enterprise looking in that direction would explain the assertion of the Dutch that their whole trade on the Hudson was threatened. It is therefore desirable to find, if we can, some traces of a connection between the Indians of the Housatonic and the northwest. It is not difficult to find them both in the New York records and in our own, at the period to which we are now obliged to limit our investigation, forty or fifty years later than that of the Kieft–Eaton correspondence.

1673

In 1689 an order was issued at Albany for enlisting as scouts certain Indians evidently living on the Hudson, and along with them those also of "Wawyachtenok."* The diligent and careful author of "The Indian Tribes of Hudson's River," speaks somewhat doubtfully of this locality, though he finds the name, with a slight variation, applied in 1702 to a tract between Poughkeepsie and "Westenholks creek," a Dutch rendering of Housatonic.† Wherever it was, its native occupants were evidently regarded by the authorities at Albany as within their jurisdiction. We must remember, however, that aside from differences about the boundary line, an Indian tribe, or clan, might easily have held lands on both sides of it. But we can

* *N. Y. Doc. Hist.*, ii. 93.

† *Ind. Tribes of Huds. Riv.*, 85 and note, 86. See Sauthier's Map, *N. Y. Doc. Hist.*, i.

get into closer quarters with these Indians of Wawyachtenok, and strengthen the proof of their relations with the north-west. From a deed given in 1685 for the eastern part of the Livingston manor, it appears that the southern line of the tract therein granted, crossed, somewhere to the west of Salisbury, a path evidently leading south-east, and described as "ye Path y^t goes to wawyachtonock."* The existence of this path, or trail, of course implies a good deal of Indian travel between the points which it connected, and if its general direction was the same with that which it followed where we meet it, those points could have lain, respectively, on the upper Hudson, probably opposite Albany, and on the Housatonic, at a considerable distance below Salisbury. It would, however, be hard to fix the lower terminus of a trail so vaguely described, did we not know of a place somewhat east of south from its intersection with the manor line, and having a name much more like Wawyachtonock than Wampog is like Wappinger, namely Weantinock. This form of the word (which appears substantially in a deed of 1704, recorded at Albany),† is familiar to almost of us as the Indian name of New Milford.

Any doubt that may be felt about the identification of Wawyachtonock and Weantinock can be important only as it affects the proof of intercourse between Weantinock and Albany. And the records, as well as the traditions, of Connecticut, furnished independent proof of such intercourse, which, again, makes the identification more probable. Thus, in 1688 we hear of "a Wyantinack Indian" as lately come from Albany with important news.‡ In 1707 the Indians of "Powtatuck" and "Owiantonuck" (a variation of the name found several times), were suspected of intending to join the French,§ which presupposes communication with Indians farther north than Albany, probably those of Schaghticoke. The proofs of a migration from Schaghticoke to the neighborhood of Weantinock at about the same period, I have not now time to

* *N. Y. Doc. Hist.*, iii. 619, 620, 624.
† *Ind. Deeds and Warrants of Survey*, i. 123–5. (*MSS.*)
‡ *Conn. Col. Rec.*, iii. 438–9.
§ *Conn. Col. Rec.*, v. 18.

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present, and they were laid before the society a number of years ago. This movement, which I suppose to have finally resulted in the settlement of Scatacook in Kent, also suggests previous intercourse between Weantinock and the region north of Albany. And, finally, the well known tradition which represents the royal wigwam of Waramaug, the last sachem of Weantinock, as decorated by Indian artists coming from a great distance to the north,* points in the same direction. If these "artists" were of Schaghticoke, above Albany, they are likely to have been Narragansetts, since Schaghticoke was settled, after King Philip's war, by fugitives from New England, who were largely Narragansetts, led, I believe, by Pessacus, the brother of Miantinomoh.† The members of that tribe were famous for their skill in the arts,‡ and the Moravians found some of them long afterwards on the Housatonic.§

All these indications, it is true, belong to a period a generation or more after the date of the trading-house, and the earliest mention which I have found of Indians as actually resident at Weantinock is of 1675,‖ twenty-six years later than the latest mention of the post (1649). But this is far enough from proving that Weantinock was not inhabited in 1646, and, as we shall see presently, there is good reason for believing that one point in the territory was regularly visited, if not permanently occupied, from time immemorial. And not only these later indications, but those furnished by contemporary documents, point uniformly to, or towards, Weantinock, or New Milford, the later ones as the place where the trading-house ought to have been, in order to open trade with the Indians of New Netherland, the earlier ones as the place where it actually was. The conclusion that the New Haven merchants had established themselves at Weantinock in 1646 is almost irresistible, but we have not yet found a positive statement to that effect. And as the winding course of the Housatonic through New Milford

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* Trumbull's *Hist. of Conn.*, ii. 83; Orcutt's *Inds. of West. Conn.*, 116–7.

† *Conn. Col. Rec.*, ii. 336, 348, 401, 439, 472, 541 and note; *N. Y. Col. Hist.*, iv. 743–5, 903, 994, 996–8. See also *N. Y. Col. MSS.*, xli. 62.

‡ *Inds. of Conn.*, 64. § *Life of Zeisberger*, 117, note.

‖ *Conn. Col. Rec.*, ii. 369.

covers many miles, it is worth while to strengthen our conclusion, if possible, by looking for some point within the limits of the township better suited than others for Indian traffic.

Now the word Weantinock is translated by Dr. J. H. Trumbull, our highest authority on such a question, "where the water whirls," though he gives an alternative rendering. He says that, "the name seems to have belonged to the basin at the foot of the Great Falls," and himself applies it to "the so. part of New Milford, on both sides of the Housatonic river."* The historian of New Milford, however, is positive that the real Weantinock lay on the west bank of the river, "opposite the village of New Milford," and two or three miles about the falls. Dr. Trumbull's second translation of the word is used to support this view.† In either case the locality about the falls was embraced within the Weantinock territory. It was, moreover, an important point. Whether or not it were called Weantinock, it was certainly called Metichawon, a word which means, according to Dr. Trumbull, "an 'obstruction' or 'turning back,'" and was given to the place because the falls checked the progress of the fish, on their way up the river.‡ The result of this was to make the basin below, in the words of Dr. Benjamin Trumbull, the historian of Connecticut, "one of the best fishing-places . . . . in the colony."§

How highly the Indians valued it appears from the fact that they retained to the very last their title to the land about it, and their rights in the fisheries.‖ It is almost certain that they had always resorted to it, and altogether probable that a village had existed there from a period indefinitely remote.¶ Waraumaug's painted palace certainly stood there, and it would seem that he must in that way have acquired the name by which he figures in history, since Waraumaug means "good fishing place."** And the Potatucks, among whom he was a sachem in early life, and with whom his people were essentially one, derived the name by which they were known to the settlers from

* *Ind. Names in Conn.*, 80.
† *Inds. of West. Conn.*, 101-2.
‡ *Ind. Names in Conn.*, 29.
§ *Hist. of Conn.*, ii. 83.
‖ *Inds. of Conn.*, 397, etc.
¶ *Inds. of West. Conn.*, 108.
** *Ind. Names in Conn.*, 85-6.

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the same locality. Potatuck means "the country about the falls," and they were the "Falls Indians."* From an early date, therefore, this point must have been a sort of "business centre" for the region occupied by the Wappingers of the Housatonic, and a place to which their kinsmen and allies to the west and north would often make their way. And so it would have seemed to English merchants admirably fitted to be a centre of trade for them.

And it would have had another obvious and powerful recommendation in the fact they could not get any farther; here they reached what was for them the head of navigation. Of course canoes, which could be carried over a portage, might go many miles beyond, and there is water enough even in our day to permit the use of a small steam-boat above the falls. But boats large enough to be of much value in the fur-trade would have had to stop below the rapids, which extend for some distance south of the falls. That larger craft than canoes or skiffs might then have ascended as far as this, though they could not do so now, is made probable by a statement of Dr. Dwight—better known as the first President Dwight. He says, writing early in the present century (1811), that "boats have in various instances, proceeded during the spring freshets, from the foot of the great falls in New Milford, to Derby," adding that "a series of locks might render this navigation safe and convenient at all times."† In 1646, when the forests of the interior were untouched, the current was doubtless fuller and more even than it was seventy-five years ago, and it is fair to infer that there was often an easy passage from Paugasset to Metichawon for boats which could not have been carried around the falls. We can imagine, no doubt, that had the inducements been sufficient, other trading-houses might ultimately have been built higher up the Housatonic, but when the first venture was to be made above Derby, as an experiment, the basin or cove below the New Milford falls was on every ground the best place for the experiment. On the

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* *Ind. Names in Conn.*, 80; *Inds. of West. Conn.*, 105.

† *Dwight's Travels*, iii. 396.

north side of the basin the English explorers would have seen the river rushing towards them through a narrow opening in a high wall of rock, at the point since known as the Lover's Leap. Here was a natural gateway, before which they might have felt like pausing, even had they known nothing of the small cataract at the head of the gorge which the stream has cut through the mountain. Immediately below the basin, close to the eastern shore, lies one of the long, narrow islands common in the Housatonic, and likely enough to commend itself to cautious traders, dealing with savages, far in the wilderness, as an eligible spot for traffic and storage. The channel on the east afforded at least a slight protection, while if they were compelled to abandon both the post and their boats, it was not wide enough to prevent their escape to the side of the river nearest home.

It is evident that this locality satisfies the conditions of distance and direction supplied by the contemporary evidence which we have examined, as far as those conditions will bear criticism. We should not say of the New Milford falls that they are, in Director Kieft's words, "neere Mauritius river." But in a straight line, measured on the map, they are as near to the river as to New Haven, or about thirty miles. Kieft could not have known the precise distance, and if the trading-house really drew trade from the Hudson, it was near enough to be complained of. The Dutch estimate of 1649, "six leagues from the North river," is considerably less than thirty miles, but their language shows that they too were ignorant of the exact position of the post. And it is fair to them to remember that a line running very nearly southeast from Magdalen island, their point of departure, would cross the Housatonic but little more than twenty miles east of the Hudson. On the other hand, Governor Eaton's statement, meant as a contradiction of Kieft's, that the post was "many miles, nay leagues" from the Hudson, applies fairly well to the site at New Milford. Thirty miles might be called "many," and very likely Eaton supposed the distance greater than that. It is possible that he did not intend to say that the leagues were

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"many," and certain that he could not have intended to say that they were very many, since New Haven itself is less than twenty leagues due east from the Hudson. And finally, the conditions of distance and direction which we get by combining the statements of Eaton and Winthrop, to the effect that the trading-house was about thirty miles northwest from New Haven on the Housatonic, are perfectly satisfied by placing it at the falls, and are quite incompatible with any site very far from them.

Summing up briefly all the evidence thus far presented, we find that in the year 1646, the New Haven merchants were believed by the Dutch to have opened communication with the Indians of the Hudson, and were known to the English to have established a trading-post at a point on the Housatonic which must have been in the neighborhood of New Milford; that the Dutch, three years later, had information which led them to think that the post might lie somewhere in the same region; that the Indians of that district apparently belonged to a tribe whose territories extended to the Hudson, and probably in 1646, and certainly a generation later, were in communication with the natives on that river, both to the west and to the northwest; that, finally, a particular locality on the Housatonic, in New Milford, a little below the great falls, must have been much resorted to by the natives, at all periods, and was the highest point on the river which could be readily reached by English boats from below.

To these indications I have now to add a wholly independent proof, supplied by the town-records of Stratford.* It is practically contemporary, since it is of a date only twenty-five years later than that of the Kieft-Eaton correspondence, when many, both Englishmen and Indians, who remembered the circumstances, must have been living. The document in question is also on record at Hartford,† and is referred to in the second printed volume of the Connecticut colonial records.‡ In a

* *Stratford Records*, ii. 466, (*MSS.*).

† *Col. Rec. of Lands*, i. 421, (*MSS.*).

‡ *Col. Rec.*, ii. 313 note. See also *Housatonic Bay* (New Milford), June 21, (?) 1879.

paper which I read before the society in December, 1876, its bearing on the matter now in hand was briefly noticed. The only similar use which I have seen made of it in print is to be found in two volumes published in 1882 by the Rev. Samuel Orcutt, who has written extensively upon the local history of Western Connecticut. In one of them Mr. Orcutt prints the greater part of the document,* and in the other he speaks of it in connection with the New Haven trading-house.† Following my own transcript, made at Stratford, I find that on the 25th of April, 1671, certain Indians conveyed a large tract of land "unto Henery Tomlinson of Stratford." Several of the grantors and others signing the deed are elsewhere described as Potatucks, and appear as granting land in the region above Derby.‡ The tract sold to Tomlinson stretched for seven miles along "the great river of Oantenock." The "great river" can only be the Housatonic, often so styled in colonial times, while Oantenock indicates the part of the river which was meant. Weantenock is not unfrequently spelled with an initial "O," and Dr. Benjamin Trumbull says that in his day this was the more general method.§ Other variations are almost innumerable. As if to remove any possible doubt on this score, we learn that "Scantemaug of Wyantenuck" complained of the sale not long afterwards. The locality seems farther defined by a deed in the same volume, dated a few weeks later (June 1, 1671), and given by two Indians, one of whom appears long afterwards as of Potatuck. The second deed conveys a tract which I suppose to have extended from the Shepaug river westward through Bridgewater and Brookfield, the towns bordering New Milford on the south-east and south. The Tomlinson purchase is referred to in a rather puzzling way, but was undoubtedly just above, and would therefore have terminated to the south, not far from the present southern line of New Milford. That

* *Hist. of New Milford and Bridgewater*, 16.

† *Inds. of West. Conn.*, 105–7.

‡ *Anc. Woodbury*, i. 24–26, (Pocono and Coshoshamock); *Derby Records*, (MSS.).

§ *Hist. of Conn.*, ii. 82, note.

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it did in fact embrace a considerable part of New Milford appears from the litigation which occurred about forty years later between the settlers of that town and a claimant whose title rested on the Indian grant to Tomlinson. Now this grant opens with the conveyance to Tomlinson of an island three miles from the lower boundary of his purchase. The island which has been mentioned as lying below the falls is between two and three miles due north from the Brookfield line. The island sold to Tomlinson is described, finally, as the one "where Mr. Goodyear had an tradeing house."

We have found what we were looking for at the precise point towards which our study of the evidence has guided us. In fact the discovery would closely resemble that of the planet Neptune by mathematical reasoning, but for the single circumstance that the discoverer's studies began with the Stratford deed, so that he supposed himself to know where the trading-house was before he seriously set about learning where it ought to have been. But it is a comfort to find a thing in the right place, and helps to convince the skeptical that it is the right thing.

The reference to Mr. Goodyear hardly needs to be accounted for in a paper read before this body. Stephen Goodyear is known to us all as the Deputy-Governor of New Haven from the organization of the jurisdiction in 1643 until just before his death in England in 1658. But for his absence from the colony he would undoubtedly have succeeded Eaton as chief magistrate.* Our associate, Mr. Atwater, the historian of the colony, says of him that he was "interested in every enterprise which promised to be advantageous to New Haven."† He was concerned, in 1654, if not earlier, in the undertaking which was begun at Paugasset in 1642, and which may have led to the advance up the river to the Weantinock territory.‡ Whether he owned the trading house, or merely represented New Haven in the matter, it was almost equally natural that it should be spoken

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* *History of the Col. of New Haven*, 224.
† *Hist. of Col. of N. H.*, 415-16.
‡ *N. H. Col. Rec.*, ii. 77.

of as his, and natural, too, that an officer of the jurisdiction, like Eaton, should speak of it as theirs. From a document preserved in Hartford, and printed by Mr. Orcutt in his "History of New Milford and Bridgewater," it appears that the island continued to bear Goodyear's name, at least as late as 1706.* I do not learn that it has done so in recent times, unless the old usage has been revived by Mr. Orcutt himself. It also interests us to find that Stephen Goodyear was one of the Commissioners of the United Colonies in 1646, so that Winthrop's information about the proceedings of the New Haven merchants was of the best.

How long the trading-house was used I have not learned. The Dutch are authority for the statement that it was maintained in 1649, while in 1671, the date of the Stratford deed, it must have been abandoned, and the site relinquished to the Indians, for a considerable time. The fact that it seems to have been known to the natives only as Mr. Goodyear's, suggests that the abandonment took place before his death in 1658, and the silence of the New Haven records on the subject makes it probable that it was given up still earlier. We can hardly suppose that it was permanently successful. The Indians living near the Hudson would find it more convenient to sell their peltry to the Dutch, and some of the latter certainly offered inducements, in the sale of firearms, in which the English were unwilling to compete with them.† The early commercial ventures of New Haven were generally unfortunate, and after 1656, as our secretary, Mr. Trowbridge, tells us, it seemed "little else than a colony of discouraged farmers."‡ The great disaster of the loss of Lamberton's ship occurred in the very year in which the trading-house is first heard of. Such traffic as was kept up with the Indians on the Housatonic could be well enough conducted at Paugasset, and it is quite likely that in 1654, when Goodyear's name first appears in connection with that place, his more northern establishment had already been transferred thither.

The way in which the facts which have been recited illustrate

* *Hist. N. M.*, etc., 15.

† Brodhead's *Hist. of N. Y.*, i. 212; *N. Y. Col. Hist.*, i. 151.

‡ *N. H. Hist. Soc. Pap.*, iii. 96.

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early political conditions, among both natives and colonists, deserves a moment's attention in closing. The effect apparently produced on the Hudson by the extension of traffic up the Housatonic, gives some support to the opinion that at the date of settlement one large tribe occupied, after a fashion, the whole territory between the two rivers, below the northern part of Duchess county. Some have extended its range as far east as the Connecticut.* The sort of unity which existed was consistent with much freedom of local and individual action, and the confederate clans of various Indian nations might have used our national motto, *E pluribus unum*. Bishop de Schweinitz, of the Moravian church, feels warranted in saying that "the race which came to establish upon our continent the great republic which we have lived to see, found a faint type of it amid the children of the primeval forests."† The Indian political system, like our own, was federal.

The facts presented also exhibit the extreme difficulty which the most conscientious and peaceable men experienced in adjusting the territorial claims of the two European nations which had settled on the Connecticut coast and along the Hudson. In Professor Dexter's valuable paper on "New Netherland and New England," printed in the third volume of the society's publications, the Dutch claim, in virtue of settlement, to "the Hudson and the region directly contiguous," is conceded. On the other hand, the right of the English to occupy "the Connecticut valley and coast" is maintained.‡ But what is to be said of the Housatonic valley? The mouth was in English territory, as Eaton alleged in his reply to Kieft, but its course takes it very near the boundary between Connecticut and New York, as afterwards agreed upon, and one of its affluents lies chiefly beyond the boundary, while nobody then knew just where its course might take it. The English post at Weantinock was indeed far within the line which Stuyvesant seems to have accepted in 1650,§ but if it was close enough to the Hudson to

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* *Ind. Tribes of Hudson's River*, 82-3; *Inds. of Conn.*, 83.
† *Life of Zeisberger*, 76.
‡ *N. H. Hist. Soc. Papers*, iii. 467.
§ *N. H. Hist. Soc. Papers*, iii. 273-4, 460.

impair the value of that stream, as respected the only use which the Dutch then made of it, for Indian trade, the latter might say with some show of reason that it had been placed unfairly upon territory essential to their own enjoyment of their possessions.

I am fortunately qualified to render a just decision in this delicate matter. Under the well-known laws of heredity, not only a man's character, but his opinions, are settled by his ancestors, and as mine happened to be on opposite sides in the controversy, I find myself in this case, as in many others, in entire agreement with both parties.

NOTE.—It is an interesting fact that the connection now about to be made (December, 1887) between the Derby and the New England railroads, over a branch of the Housatonic railroad from Newtown, will reopen the line of communication described in the foregoing paper. From New Haven to the point of connection in the Housatonic valley, the route is substantially the same, while the New England road, from Whaley pond to its terminus on the Hudson, must very nearly follow the line of the old Indian trail along Fishkill Creek. The Housatonic railroad, also, by its northern connections, is now to bring New Haven into nearer relations with Albany, over a route not differing much from the other Indian trail from "Wawyachtenok." Making all allowance for changed conditions, we may not unfairly speak of the "Derby extension" as the resumption of an enterprise begun more than 240 years ago. The Historical Society has the pleasure of indicating a bond of sympathy between the business men of 1887 and those of 1646.

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History of Milford, Conn. Federal writers project, W.P.A.

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"The first ship on record to be built and launched in Milford was a 150-ton brig, constructed for Richard Bryan in 1690 by Bethuel Langstaff. In 1695 Langstaff built a brig for Elisha Benneill of Boston. Righard Bryan added another vessel, the Seaflower, to his fleet in 1717 ."

"From that time until 1820 namy ocean going and coastwise ships were constructed for Milford, New York, and Boston traders."

History of Derby, Conn. Orcutt and Beardsley.

Page 262

"This for a series of years was one of the most active and prominent industries in town. Among the earliest vessels built were thoes constructed along the shores of the Ousatonic and Naugatuck rivers, above their junction at the narrows."

"The first shipbuilding was conducted, most probably, by Thomas Wheeler of Stratford, who settled on Birmingham Point in 1657; remaining six years, when he returned to Stratford."

"Soon after Mr. Wheeler returned to Stratford, Mr. Alexamder Bryan, a merchant and shipbuilder of Milford, became the possessor of Mr. Wheeler's privileges, or a part of them on the point, and continued these enterprises in his line until about 1680, when his son Richard made some arrangements to settle in the town as an important buisnessman."

"Joseph Hawkins became the first posessor of Mr. Bryan's interests in the point, which his son, Joseph Hawkins Junior, succeeded him in mercantile business, but to how great an extent is not known, except that in 1712-20 it was the principal trading place in Derby."

History of Milford, Conn. Federal Writers Project, W.P.A.

Page 39

"Interest in shipbuilding brought about an early attempt at conservation of New Milford's natural resources. The timber used in the construction of the vessels was cut in the surrounding forests. To protect the supply the town voted on March 2, 1696 to prohibit '...all and every man from getting any sort of timber usefull for the building of any sort of boats or vessells fitt to goe to sea in, without the consent of th town or the major part of the sellectmen of the town,...this above order not to extend to those vessels upon the stocks."

History of Stratford and Bridgeport Conn. Part I. Orcutt.

Page 293

"There was no trade on articles of wood, for in 1690 the town, by vote, forbid the transportation of any timber for clapboards, pipestoves, hoops, heading, rails, or building lumber, from the place, because of its scarcity."

Trade and Maritime affairs, series I, Vol. I; pg. 40

Page 40

"RIchard Sachett petitions the legislature for the priviledge of felling cutting _____ or transporting all such trees of Lyme, Spruce, or other Timber whatsoever, that may be suitable for the uses agoresaid, in any swamps or places within this Colony, not heretofore given and granted to any town or particular person..." "..in providing Masts and etc. for the (Her Majesty's Royal) Navy,..." May, 1705

A Study of Cornwall Connecticut Communities. How the People in a Small Town Live and Work. William W. Waite, M.S. Professor of Industrial Engineering Based on Student Reports in the Summer Engineering School, Columbia University in the City of New York, 1961.

Page 2

"Among the supplementary benefits derived from the land distribution was an interest in a large and forbidding swamp, lying close to what is now the center of Torrington. Because of the profusion of tall straight pine trees which were well adapted for use as ship spars this tract was known as 'mast swamp'. It was divided up and allocated to the planters in porportion to their land holdings."

Cornwall Connecticut. Stove, Historical writings, 1935 .

Page 566

"Also voted that William Chillister, John Dibble, Sam Mepenger, and Zephanmiah Story be a committee to inspect our pine timber and to dispose of any logs that are cut for the benefit of the proprietors and to prosecute any that shall trespass upon us by cutting or carrying off any of our timber."

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"This valley, at the settlement of Cornwall, was a vast and almost impervious forest of large and lofty white pines. It was called Pine St. So thick and large were these pine trees by the Church, that to clear the ground of the forest it was necessary for the wood man to climb the trees with his axe and cut off the many branches to prepare the way to fell the huge and long trunks. Many of them at the ground were five and in some instances six feet in diameter, with tops a hundred feet high."

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Berkshire Scientific and Historical Society , Publication #2, Pittsfield, Mass. Sun Printing Co. , 1889.

Page 31

"In 1828.

Great Barrington; 17 sawmills, and 2 tanneries

Lee; 9 sawmills, 4 tanneries

Pittsfield; 9 sawmills and 1 tannery

Page 32

"As pines grow best in disintegrated granite rocks, or in a soil of gneiss, mica slate, and granite and a alluvium of sand formed from them, and as there was much of this in Berkshire, it had extensive pine fprests."

Lee; A Centenial and a Century. Hyde. Springfield, Clard Brayon and Co. , 1878.

Pages 276-277

"The first pressing want of a new colony is lumber for houses and barns, and accordingly one of the first industries of Lee was the sawing of lumber for houses and barns, for which the forests and streams furnished abundant facilities. The first saw-mills were erected on mountain streams that are tributary to the Housatonic, and which at that time flowed more evenly through the year than they have since the forests have been leveled. At one time there were half a dozen saw-mills in operation here, and lumber constituted one of the chief articles of export, the farmers transporting it by horse power to the Hudson, and bringing back salt, molasses, sugar and other groceries, Santa Cruz and New England Rum, we are sorry to add, being included."

The History of Great Barrington by Charles J. Taylor. Published by the town of Great Barrington, 1928.

Page 314

"Columbia County, N.Y., furnished the principle market for lumber staves

and heading; but the supply was always in excess of the demand. The nearest point of water communication was on the Hudson River, beyound Claverack (the old Claverack landing, near Hudson) and the outlet for South Berkshire produce was in this direction to the New York market;..."

Exhibit 19
7.

A History of the County of Berkshire, Massachusetts, Part I. By Gentlemen in the County, Clergy and Laymen. Pittsfield. Published by Samuel W. Bush, 1829.

Connecticut, to the middle of Berkshire County. According to this survey, the ascent from tide water at Derby to the top of Canaan falls, is - - - - 666 ft.

From Canaan Falls to the bridge in Great Barrington, - - - - - - - - - - -	39
Thence to the Woollen Factory in Stockbridge,	130
Thence to the dam of Lee Forge, - - - - -	25
Thence to the dam of Lenox Furnace, - - -	96
Thence to the foot of Wheeler's dam in Pittsfield,	21
	997 ft.

This rapid ascent will probably prevent the construction of a Canal along the Housatonic, until the population and trade shall have very greatly increased.

Along the Housatonic in Berkshire County to Pittsfield, there is an interval of alluvial *(meadi)* land, very rich, easily cultivated, yielding abundance of grass. It is wider in the south part of the County, and occasionally disappears from the near approach of the hills; but often extends from one fourth of a mile to a mile in width. A considerable portion of it is annually overflowed by the melting of the snows in March, presenting a flood of waters in some places a mile in width in Sheffield, and varying from a foot to ten feet in depth, according to the inequalities of the surface. This flood is of great consequence in enriching annually the soil of this *interval*. On great falls of rain in summer, much damage is sometimes done to the grass and crops in this interval, by the rise of the river. Through the southern part of the County, the river appears at different times to have laid its bed over nearly the width of the interval. The deep hollows and *cores* in the meadows, in some of which water continues many feet in depth through the year, prove clearly where its bed once lay. It is continually changing its course now, slowly but constantly wearing away from one bank, and forming *alluvion* on the other; and in this progress often uncovering trees from one to two or three feet in diameter, in a state of complete preservation, often at a depth of six, eight and ten feet below the surface. These trees must have been buried for ages.

At the commencement of the rise of the waters in the spring, thousands of logs of *pine* and *hemlock*, have

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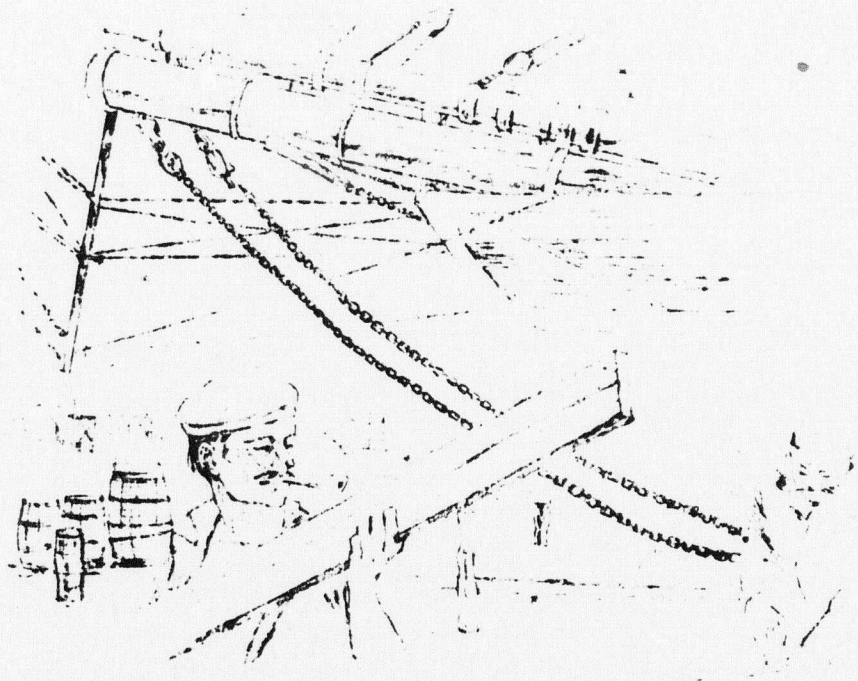
been thrown into this river, and floated down its current from Great Barrington and Sheffield for years, over the falls at Canaan, to New Milford and Derby, where they have been converted into boards, plank, shingles, &c. for market in Connecticut and New York. The rise of the water has commonly carried them safely over the rocks in the stream. Their passage over the Falls has often been witnessed with amazement. This trade has carried a very great portion of the *pine timber* from the south part of the County.

Hoosic River has a northerly and north-westerly course. The *south*, and principal, branch rises in the south-east part of Lanesborough, 901 feet above the Hudson at Albany, runs north-easterly through Cheshire, and thence northerly through the south village of Adams to the north village in this town. Here it turns to the west, to pass round the north end of Saddle Mountain and near the south base of Oak Hill into Williamstown. Directly north of Saddle Mountain, and on the *north side* of the Hoosic, stood, at a little distance from the stream, Hoosic Fort. Through Williamstown, the course of the river is north-westerly to the foot of North-west Hill, nearly two miles north-west from the College, where it turns towards the north, and passes into Pownal, Vt. Its course then becomes south easterly through Hoosic, N. Y. to Hoosic Falls, from which it holds a westerly course to Schaghticoke Point, where it unites with the Hudson, about ten miles north of the city of Troy.

At the south village of Adams are important *water privileges* on the Hoosic, occupied by cotton factories and mills. Here it receives a small tributary from the east, which rises in the mountains toward Savoy. Here the Hoosic is little more than a rod in width, with an average depth of perhaps one foot. Its course is slow through the narrow valley of Adams to the north village, where is a very valuable mill site. Here is a grist-mill, saw-mill, oil-mill, machine factory and cotton factory. A few rods below this site, it is joined by a stream, called the North Branch of the Hoosic, which rises in Vermont, and passing southerly through Clarksburg along the base of Hoosic Mountain, turns to the west near this village in Adams to unite with the other branch,

Most of the trees in the forest have broad leaves. They are deciduous trees which means they drop their leaves in the winter. The most common are birch, beech, maple, and oak, but there are many others. Hardwood trees like these are very useful in making things that require strong wood. Furniture, tool handles, wagons, and ships all require hardwood. An even more valuable lumber tree is the white pine. This has a soft wood that is easier to cut and shape. Many of the boards we use are pine. The white pine has another advantage in that it grows very tall and very straight in a single trunk. (Most deciduous trees have large branches.) The white pine makes the best masts for ships.

Because most transportation was by water in these early days, the men of Connecticut started to build ships soon after they settled here. This meant a big demand for masts. They were needed by local shipbuilders and they could also be sent to



Two ship's carpenters are busy at work building a ship that will carry Connecticut's farm produce to England or to the West Indies.

England where the white pine does not grow. Masting, as the work of cutting down and bringing these big tree trunks to the coast was called, was a very profitable business. It was also very risky. Cutting down a 150 foot tree without breaking it was difficult. After the tree was on the ground it had to be dragged to the river and then brought down the river in the spring flood. Many masts were caught in the falls in the rivers and broken to bits. But, if one was successful, the mast was worth a lot of money. Many men tried it and a few succeeded. Lumbering made a good winter job for farmers. The work began after the snow fell and ended with the spring log drive. Probably most of the lumbering in Connecticut was done by part time workers, men who were farmers in the spring, summer and fall, and lumbermen only in the winter.

Mineral Resources

Besides lumber and farmland there were other resources that the Connecticut settlers looked for. These were metals. Ever since the Spanish found gold and silver in their colonies of Mexico and Peru, every settler dreamed of finding a gold mine on his land. Some of them spent much of their spare time poking around in the woods looking at the rocks and searching for metals. They hoped to find gold or silver, but they knew that almost any metal would be valuable.

Metals are usually found in tiny quantities scattered through rocks. This combination of metals and rocks is called an *ore*. After it is discovered and dug out of the ground, the metal has to be separated from the ore before it can be used. There are a number of ways of doing this. Later on this book will describe the way iron is separated from rock. There has to be enough metal in the ore to be worth the trouble of getting it out. It takes time and money to separate the two. If there is too little metal, it simply is not worth the effort. This is the problem in Connecticut. There are small amounts of a great many metals. But in only a few areas is there enough of any one metal to be worth mining. Some of these places were discovered and mines were opened up.

Exhibit 19 11.

They Found a Way, by Ivcagh Hunt Sterry and William H. Garrigus, 1938, Brattleboro, Stephen Daye Press.

MATT LYON

Matt Lyon worked as a woodcutter and at hauling logs to the mills. Pullingham and Dark Entry knew him as a massive giant with hands that would fell an ox or crush a man's skull like an eggshell. The Salisbury charcoalers ran and hid when Matt Lyon came strolling into Town M and ordered them to stop cutting good timber for fuel for Riga Forge, and the lumberjacks of Mast Swamp gloried in tales of his strength in handling the tall pines cut for shipbuilders at Derby and Hudson River yards.

About 1771, Matt Lyon married Miss Hosford of Litchfield, a niece of Ethan Allen. In 1774, they followed the original Green Mountain Boys to Vermont, and purchased lands near Wallingford where they resided for three years. Possessed of many natural qualities of leadership and a pioneering spirit, Matt Lyon cruised with other Connecticut men through the border country and took an active part in the fights over the New Hampshire grants and in the early revolutionary actions of the Allen boys.

At Ticonderoga, Lyon stood at his leader's right hand and scowled at the frightened Britishers. Under Montgomery, the Irish-Yankee served as an adjutant of a Vermont regiment that operated during the Canadian campaigns. Later, when a free-lance lieutenant of irregular infantry, the young giant was ordered by General Gates to relinquish his command because of the lax discipline shown by his carefree troopers.

Dishonored because he could not bring himself to bear

Newton's History and Historian, Ezra Levan Johnson , prepared by Jane Eliza Johnson., Newton, Connecticut., 1917.

stands on the banks of the stream flowing through the village; also a grist mill several hundred feet below, which is still used for the purpose for which it was originally built.

When Elijah Sanford died, the mill property passed into the hands of his son, David Sanford, and from him to his son, William, grandson of Elijah. A long stretch of years it stood in the Sanford name and is owned now by Patrick Campbell. Ott repaired and somewhat dull from age, it serves the public, though not exactly as of old, when all the work was custom work, as the farmers raised the grain they used and the miller got his living from the toll he took for grinding, and laid by some cash for a rainy day. Now most of the grain for grinding, comnig from the West, the farmer goes to mill with an empty wagon and money in his pocket, to return with his wagon full but pockets empty and, perchance, an increase of the debit side of the account.

The motive power of the old mill has not yet been superseded by steam or electri ity, as the power still comes from the sparkling waters of the Pootatuck, the same old stream, with the same old Indian name, which, though differently spelled than of old, is a name musical in our ears, whose waters, ever beautiful to look upon as they ripple along in sunshine or in shade, until lost in the quiet restfulness of the pond below, are again let loose to move the great machinery of the rubber works and from thence pursue checkered, fascinating wanderings through wooded glen and quiet meadows, to find outlet in the waters of our beautiful river, the Housatonic.

THE FIRST SAWMILL.

Almost as imperative as the necessity for a Grist Mill, was the necessity for a Sawmill.

March 17, 1712, the town voted, that Mr. Benjamin Sherman and Capt. John Holley and John Sely shall have Liberty to get a Saw mill on ye deep Brook South of ye Town Reserved and ordered four Rods on ye west Side of ye Sawmill for A gangway and ordered that if any man draws any Log or Logs into sd Gangway ys sd Log or Logs to be forfitt to ye Town, Except sd Logs are drawn or put into sd Gangway to be sawed forthwith before any other Logs at sd mill.

Dec. 24 1713. Voted and agreed upon yt ye proprietors of ye town do freely give and grant liberty to Ebenezer Smith, James Hard, Jeremiah Turner, John Seely and Joseph Gray of Newtown, to build and erect a sawmill on ye Hah Way River, so called, North west of Darby road down neat Stratford, or on Pohtatook River, and as much land as shall be needful for ye use of sd saw mill so long as sd persons shall erect a mill there, provided they will saw for ye town to ye halves all such timber as the ye inhabitants shall bring to this mill and for two shillings six pence per hundred in pay for Whitewood and Chesnut, it is also granted yt they shall have liberty of a convenient passage to ye Great River yt ye owners of sd mill and ye inhabitants of ye town may have ye advantage of ye transportation of then timber, plank, boards and clt work, where they shall see cause to make sail of ye timber said sd partners are to build ye saw-mill in two years time or else expect to lose ye sd stream. Also voted Joseph Gray and Jeremiah Turner are chosen a Committee to lay out concerning ye land for sd Mill and a Highway to ye Great River called Stratford River

Voted and agreed and ordered four rods on ye west sde of ye sawmill for a gangway and ordered yt if any man draws any log or logs into sd

limits of the whites, near the western boundaries of the present state of Connecticut. In Sharon, Salisbury, and over the line in New York, there were Indians who were christianized by Moravian missionaries, especially at Gnaadensee (Lake of Grace). In Kent the Scatacook (or Schaghticoke) community, gathered under the lead of Mauwehu, have hardly disappeared. They were wards of the State for perhaps a century, and occasionally some resided in Cornwall, like "Maw-wehew," as his son's tombstone spells the name. The most noteworthy of these chiefs was Waramaug whose settlement was in New Milford near "Lover's Leap" rock, and toward the lake that bears his name. He was a man of ability and character and had a rather remarkable wigwam, decorated with paintings of all kinds of birds and beasts by a native artist brought from a distant tribe.

The first step toward the settling of Cornwall was the purchase from Waramaug of a tract which extended from New Milford to Cornwall Bridge. On 10 June 1710 Weramaug signed the deed with his M mark for himself and Nepato his associate, conveying to Benjamin Faverweather of Hartford and his associates, Bostonians for the most part,—"a certain tract of land supposed to Lye in the Colony of Connecticut, or Province of Massachusetts Bay in New England, or in the Province of New York,—either in part or in whole as may be known upon the settlement of the lines between the said governments, and Lys upon the Easterly side of Stratford Great River and is bounded on New Milford Township on the South," a "full mile" wide along the River as it runs, "about five and Twenty or Thirty mile by estimation," so as to take in "the Mast Swamp so called, about Two and a half mile beyond the Deep Brock, at ye entrance of ye said Swamp, to bounds at ye mouth of a Little River." The northern boundary runs eastward "crossing ye said River to ye top of a great Mountain; . . . . also ye use and benefit of the said Great River to pass and repass in at any and all times with Rafts, trees, Loogs or What else so ever." (H. 403. A)

This Great River, also for a time called the Pawtucket, and then the Ousatunnuc, has for nearly a century been known as the Housatonic. In Mr. Stone's writings, apparently the earlier spell the name Ousatonuc, but the later, from about 1840, Housatonic. The little river was Furnace Brook, and "Deep Brook" is Deep Brook still. The Mast Swamp, between the two, was so named because timber for masts was there cut and floated down the river. It included most of Cornwall Bridge and Puffingham. The original North line of New Milford was a mile southward of the present boundary. This deed may explain how names like John Hancock and Robert Treat Paine appear on Cornwall records. I believe a compromise between its grantees and Cornwall settlers was arranged. The so early name of Mast Swamp proves that logging on the river long preceded settlements near it. That nobody knew under what government this region belonged was due to the fact that it was unsurveyed wilderness with no residents nearer than New Milford and Litchfield. Waramaug and Company were only "squatters," and might well sell out for £29, though that was little more than one cent per acre.

In May, 1731, as the second step toward settling Cornwall, "the Governor and company" ordered the towns in the Northwestern part of the Colony to be laid out; and Edmond Lewis, William Judd, and John Buel were appointed to do it. Township B, Cornwall, was bounded on the East by Goshen (township A), on the West by the Housatonic, on the North and South by parallel lines running from the western corners of Goshen to the river, West 02 degrees North.

In the October session of 1737—as the third step—an act was passed by the General Assembly directing the sale of "all townships in the Western Lands on both sides of the Ousatunnuck River." Each town on the East side was to be divided into 53 Rights, one for the use of the Ministry forever, one for the first minister, one "for the support of the School in such Town," and the other 50 were to be sold at auction to inhabitants of the colony, who should remain three years on their Rights, finish a house 18 feet square and "7 feet studd" within that time, and subdue and fence 6 acres. "The Middle town."—Cornwall.—was to be sold the first Tuesday of February, 1738, at Fairfield Court House, "the same to be set up at fifty pounds a Right." These sales were to be continued from their assigned dates until completed, and purchasers had two years in which to enter upon their lands. Cornwall was all sold Feb. 8th, the Rights being bidden off at from $99 to $112 each. The 27,000 acres were so purchased at about seventeen cents each, in Rights not quite equal to a square mile, but of about 550 acres. It may be worth adding that township A, Goshen, was sold at New Haven in December, 1737; C, Canaan, at New London in January, 1738; D, Norfolk at Hartford in April, 1738 (and again at Middletown in 1742, the purchasers giving it up after making the first payment, except Timothy Hosford who sold out and moved to Cornwall). What a mistake that they did not hold their land for the rise that now puts high prices upon the bleak hills, hardhack pastures, and laurel thickets of fashionable Norfolk! The state finally succeeded in disposing of the township by auction at Middletown in 1754 (excepting what Hosford had sold to Titus Brown). Township E, Kent, was sold at Windham in March, 1738. The upset price for the Rights in these towns varied curiously, Norfolk and Kent, like Cornwall were to sell at not less than £50, Canaan and Goshen £60, Sharon and Salisbury £30 though the Salisbury Rights were more than twice as large, its greater territory being divided into but 25, which offered that town for some seven cents per acre. Just twenty years earlier Litchfield had been sold, the 25 Rights then appraised at £5 each. It is said that Connecticut money had not greatly depreciated, which would indicate a varying demand for land,—or, perhaps, across the Housatonic was too far west, and Litchfield too—what?

The land was divided gradually to the owners of the 53 Rights, usually after considerable delay. They were dealt out in Divisions of unequal amounts, two being usually voted at one time, but laid out and chosen perhaps a year apart.

1 & 2	Divisions voted	6 Sept. 1738.	50 acres each
3 & 4	Divisions voted	19 Sept. 1730.	100 acres each
5 & 6	Divisions voted	1745.	50 acres each
7 & 8	Divisions voted	25 June 1750.	35 acres each
9 & 10	Divisions voted	25 Mar. 1760.	7 acres each
11	Divisions mentioned	17 Mar. 1828.	

About this latter date Capt. Seth Pierce had bought up the remaining shares of half the Rights, and thereafter Obadiah Bierce owned a great part of them and seems to have acquired all the unassigned territory. The above 484 acres each would leave about 7000 acres for roads, lake, Green and final divisions,—about one-fourth of the town's area.

Before 1738 people from the southward, especially New Milford, pastured cattle along the river in Cornwall, and destroyed much timber to increase the pasturage. They also cut logs and shipped them to the seashore, masts in particular. Those who cared for the cattle built summer shelters for themselves, and probably woodmen did so. There was some trouble from both

Two Centuries of New Milford Connecticut. Prepared under the direction of the historical committee by various citizens of New Milford and by the Editorial Department of the Grafton Press. Published by the Grafton Press, New York, 1907.

Page 28

(The journey started at the Stratford-Milford Ferry)

"After a short stay at the old Tyrrell house, the wedding journey was resumed, up the "Great River" to the Weantinoug County. The "House Plenishing" demanded by the customs of those days, ahd been furnished by Josiah Rossett, and ahd been securely packed in a stout boat to be rowed and poled up the river this being, at that time, the only means of conveying heavy articles to the settlements above."

Historical Records of the Town of Cornwall. Collected and arranged by Theodore S. Gold; The case, Lockwood, and Brainard Co., 1904.

Page 22

"The river is fordable at low water in certain places; yet before bridges could be built a ferry was established and maintained for many years near Cornwall Bridge."

Two Centuries of New Milford Conn.

Page 18

"The means of transportation in early times furnished one of the most serious problems. The Housatonic Railroad was not completed until 1840. Before this, all transportation of produce and merchandise was by wagons to Bridgeport, and thense by sloop to New York. The mail also came in much the same way..."

Travel, Highways, Ferries, Bridges, and Taverns. First Series (1700-1788)
Vol. 1, page 174.

May 13, 1730 Peter Hubbell requests ferrying rights with a fare of six pence for man a horse. Granted by General Assembelly, as altered below.

Vol. i, pg. 175.

May 1730. Fares for ferry. Three pence for single man or horse; eight pence for man, horse, and load.

Vol. 1, pg. 254.

May 1744. Peter Hubbell requests rate increase. granted.

Man, horse, and load - three pence lawfull money or twelve pence old tenner.

Single person or meat cattle - two pence lawfull money or eight pence old tenner.

Sheep or swine - one penny lawfull money or four pence old tenner.

Vol. 1. page 272.

1747, Rate Hike.

Vol. 2, pg. 172.

1751, fare increase granted.

2nd. Series. Vol. III. 8a, 9a.

Hubbell's Ferry mentioned between Newtown and Southbury in connection with a bridge proposal, 1807.

Exhibit 19

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Connecticut Light and Power Company	)	Project Nos. 2576, 2604, 2632, and 2646

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents by mailing copies thereof addressed to those on the attached mailing list.

Dated at Hartford, Connecticut this 18th day of October, 1974.

Alan M. Kosloff
General Counsel
Department of Environmental Protection
State of Connecticut

Exhibit 20

List of Abbreviations Used in Citations

Arch.	Archival Series at the Connecticut State Library
CHS	Connecticut Historical Society
CR	Public Records of the Colony of Connecticut
CSL	Connecticut State Library
HMR	Historical Manuscripts Room, Yale University
LHS	Litchfield Historical Society
MHS	Massachusetts Historical Society
NHCHS	New Haven Colony Historical Society
SR	Public Records of the State of Connecticut

Bibliographic Essay

I visited the libraries and archives at the Connecticut State Library, the Connecticut Historical Society, the American Antiquarian Society, the New Haven Colony Historical Society, the Litchfield Historical Society, Sterling Memorial Library and the Forestry School Library at Yale, the libraries of Old Mystic Seaport, Clark University, and the University of Bridgeport. In each case I surveyed the card catalogs under all relevant subject headings.

I also examined all standard general historical indexes including: Poole's Index to Periodical Literature, 1802-1906;

Nineteenth Century Readers Guid to Periodical Literature, 1890-1899; Annual Magazine Subject Index, 1907-1949; Readers Guide to Periodical Literature 1900 -; Social Science and Humanities Index, 1916 -; Writings on American History, 1902-1961; America: History and Life, 1964 -.

A number of special indexes used were those to the Collections of the Essex Institute, to the Pittsfield Sun, 1800-1905, the Connecticut State Library General Index to the Archives, the manuscript indexes at the above listed repositories, and that of the Historical Manuscripts Room at Yale. Of course I consulted Charles A. Flagg's Reference List of Connecticut Local History (1900); Warren Kuehl's Dissertations in History (1965, 1970); and Kennard and Fisher's A Bibliography of Publications Relating to Water Resources in Connecticut, 1900-1970 (1970). I also scanned the contents page of each issue of full runs of The Connecticut Quarterly and Magazine; Connecticut Woodlands; Forest History; Connecticut Circle; and The Lure of the Litchfield Hills.

From all of these sources, and from the bibliographies found appended to many of them, I extracted over 150 printed items relevant to the navigation of the Housatonic River prior to 1870. I read or scanned each of those items.

I also read relevant sections of the six eighteenth- and nineteenth-century newspapers listed in the bibliography, including every issue for the period late January to mid-May for a collective total of over fifty years, and full years of

several papers for certain significant dates (1807, 1829-30).

The major manuscript sources studied were account books of shipbuilders, merchants, and lumber and sawmill operators in the watershed area. These are listed under the name of their repositories in the bibliography below. I also read numerous petitions, bills, depositions, and surveys in the manuscript Archives at the Connecticut State Library, as well as the manuscript "Journal of the [Connecticut] House of Representatives" for relevant years, and town records for Cornwall and Derby in the town clerks' offices.

Finally, I interviewed in person or on the telephone, several professional scholars of relevant specialty and numerous amateur local historians, presidents and past presidents of local historical societies. They are listed at the end of the bibliography.

Citations

1. Winer, "Great Forest," p. 38; MHS, "Wadsworth Journal," pp. 103-04, 108.
2. DeForest, Indians, pp. 4, 49-52; Hoyt, Connecticut, pp. 32-33.
3. DeForest, Indians, p. 51.
4. MHS, "Wadsworth Journal," pp. 103-04, 108.
5. Chastellux, Travels, I:83-84.
6. Dwight, Travels, IV:2.
7. Field, Berkshire, p. 205; Dwight, Travels, IV:2; Field, Berkshire, p. 351.
8. Ibid., p. 27; The [Pittsfield] Sun, February 19, 1824.
9. Winer, "Great Forest," p. 68.
10. Fairchild, "Changes in Industry," p. 60.
11. Malone, Pine Trees, p. 2; Winer, "Great Forest," Table 8 and pp. 111, 111n 30, 130.
12. Ibid., pp. 110-11.
13. Starr, Cornwall, pp. 34, 35 for example.
14. Malone, Pine Trees, passim.
15. CHS, XVI, "Wolcott Papers," p. 235.
16. Weeden, Economic and Social History, II:579, pf. 765, 833-34; Malone, Pine Trees, p. 180n 41; Albion, Sea Power, pp. 247, 273.
17. Malone, Pine Trees, p. 180n 41. See also Defebaugh, Lumber Industry, II:17.

18. NHCHS, IX, "Ingersoll Papers," p. 256; Gipson, Ingersoll, pf. 84, 96-97, 100; Weeden, Economic and Social History, II;579.

19. Winer, "Great Forest," pp. 50, 54-55.

20. Malone, Pine Trees, pp. 135-37; Weeden, Economic and Social History, II:651; CHS, XVI, "Wolcott Papers," pp. 309-10; Gipson, Ingersoll, p. 85.

21. Malone, Pine Trees, p. 52; NHCHS, IX, "Ingersoll Papers," p. 267.

22. CSL, Arch. "Trade and Maritime," series 2, I:76a-d. Italics in original. The grant is SR, VIII:335-36.

23. Church, Salisbury, p. 54; Johnson, Newtown, p. 24.

24. CSL, Arch., "Trade and Maritime," series 1, II:199; Public Statute Laws of 1808, Chapter II, paragraphs 21-24 and Chapter III; CSL, Arch., "Crimes and Misdemeanors," series 2, V:91a.

25. CSL, House Journal 1806-07, June 3, 1807; Connecticut Courant, May-July, 1807, especially June 17, 1807; Litchfield Witness, 1805-07; Public Statute Laws of 1821, pp. 468-69.

26. Field, Berkshire, pp. 27-28.

27. Telephone interview with Joseph Hoyt, September 5, 1974.

28. Dwight, Travels, II:352-53.

29. Maxwell, "Logging," p. 276.

30. CSL, Arch., "Lotteries and Divorces," series 1, I:61a. The petition was apparently renewed in 1769.

31. Anon., Considerations, p. 6.

32. Ibid., p. 7.

33. Sherwood, Derby, p. 158.

34. Hough, Report, II:224, I, forestry census tables.

35. [Litchfield] Gazette, February 22, 1809; LHS, "Hawkins Account Book," pp. 40, 64.

36. Orcutt, Derby, p. 339.

37. Yale, HMR, "Salmon W. Buck Daybook, 1849-1853."

38. See for instance p. 82.

39. Hyde, Lee, pp. 276-77; Pease and Niles, Gazetteer, p. 6.

40. LHS, "Luther Holly and Son Account Book, 1806-08."

41. Fairchild, "Changes in Industry," p. 23; Moss, "Forest Survey," p. 207.

42. Howell, "Over the Dam," galley pages 40, 51; Clark, "Economic Development," passim; Johnson, Newtown, p. 131; Whipple, "Early Botany," pp. 31-32. An excellent illustration of the localism of nineteenth-century millers is found in Lucius Osborn's sawmill account book at the NHCHS. See also Gideon Hollister's account book and others listed in the manuscript sources.

43. Maxwell, "Logging," p. 272; The [Pittsfield] Sun, January 3, 1827, or the [Danbury] Republican Farmer January 30, 1805, for instance.

44. Moss, "Forest Survey," p. 206; Winer, "Great Forest," p. 174 and passim; Smith, Pittsfield, II:38-43; Fairchild, "Changes in Industry," especially pp. 18-22, 36.

45. Winer, "Great Forest," p. 174; account books listed in bibliography.

46. Field, Pittsfield, p. 14; Taylor, Great Barrington, p. 155.

47. Smith, Pittsfield, pp. 29-34; Field, Pittsfield, pp. 13-21; Taylor, Great Barrington, p. 352; Field, Berkshire, p. 26.

48. Dwight, Travels, III:278-79.

49. Anon., Considerations, pp. 1, 10. Italics added.

50. Turrill, "Two Abigails," p. 28.

51. Morse, Gazetteer, p. 330; Pease and Niles, Gazetteer, p. 6; Barber, Historical Collections, p. 198; Dwight, Travels, III:278.

III:275.

52. See for instance, CSL, Arch., "Finance and Currency," series 2, I:57a, c; Ibid., "Industry," series 1, II:364; Orcutt, Derby, p. 404; Countryman, "Transportation," p. 456.

53. LHS, Freegift Hawkins Account Book, 1770-1825.

54. Orcutt, Derby, p. 305. For an extended discussion of eighteenth- and nineteenth-century road building along the lower Housatonic see Chapter XI of this work.

55. CSL, Arch., "Travel," series 1, II:60,61.

56. Ibid., "Lotteries and Divorces," series 1, I:61a. See also Mitchell, Roads, p. 24 and above pp. 7-8.

57. CSL, Arch., "Lotteries and Divorces," series 1, I:47. It is printed in CR, XI:530-31.

58. CSL, Arch., "Travel," series 1, II:60; Ibid., "Trade and Maritime," series 1, II:67.

59. Ibid. It is printed in CR, XI:600.

60. CSL, Arch., "Lotteries and Divorces," series 1, I:27.

61. Ibid., "Travel," series 1, II:62.

62. Ibid., "Lotteries and Divorces," series 1, I:27; CR, XII:285-86, XIII:269. See also SR, VIII:336n, 387-88.

63. CSL, Arch., "Trade and Maritime," series 2, I:75-77. Also see above pp. 15-16. SR, VIII:362n, 335-36.

SR, VIII:336n; Anon., "Considerations," p. 10.

64. SR, VIII:336n; Anon., "Considerations," p. 10.

65. CSL, Arch., "Trade and Maritime," series 2, I:77-78.

66. Pease and Niles, Gazetteer, pp. 6, 117.

Pease and Niles, Gazetteer, p. 117; Heaphy, "New Boston," p. 10; Orcutt, Derby, pp. 305-06.

67. Anon., "Considerations."

68. Orcutt, Derby, pp. 310-11; Starr, Cornwall, p. 65; Field, Berkshire, p. 27.

69. Countryman, "Transportation," p. 477.

70. Fairchild, "Changes in Industry," p. 57.

71. Withington, Twenty Years of Railroads, p. 19; Orcutt, Derby, p. 272.

72. Withington, Twenty Years of Railroads, pp. 19-20.

73. Housatonic Rail Road, "First Annual Report," p. 25.

74. Ibid., Annual Reports, 1839-1888.

75. Orcutt, Derby, p. 76; Johnson, Newtown, pp. 152-59; Starr, Cornwall, pp. 40, 230, 235, 242; Cothren, Woodbury, II:936; Orcutt, New Milford, p. 41; Hawley, Brookfield, pp. 115, 129.

76. Clark, "Economic Development"; Fairchild, "Changes in Industry," pp. 2, 72-73 and passim.

77. Sheffield, Centennial Celebration, p. 55; Collier, Sherman, p. 21.

78. Howell, Empire Over the Dam. Scheduled for publication October, 1974. I read the author's galleys.

79. Ibid., galley 64; interview with Kenneth T. Howell, September 5, 1974; notes of description of overland route in Mr. Howell's hand in the possession of this author.

80. Saladino, "Economic Revolution," p. 45.

81. Ibid., p. 57. See also pp. 50, 60, 254-55.

82. See bibliography under "Newspapers" for the scope of my research.

83. Saladino, "Economic Revolution," p. 254.

84. Field, Berkshire, p. 355; Hyde, Lee, p. 144; Field, Pittsfield, pp. 23-25; Church, Salisbury, p. 52; Dwight, Travels, II:354; Saladino, "Economic Revolution," p. 59; Atwater, Kent, pp. 94-96.

85. Coles, Survey of the Roads, endmap, maps nos. 15-20.

86. Dwight, Travels, IV:92.

87. Mitchell, Road-Making, pp. 23-24.

1. Henry Parker Fellows, Boating Trips on New England Rivers. Boston, Cupples, Upham, and Company, 1884.

2. Direct Testimony of Clinton D. Hull before the Federal Power Commission. Project No. 2576, 2604, 2632, & 2646. Exhibit CDH-1.

3. Fellows, Boating Trips, pp. 68, 125.

4. Ibid., pp. 67, 68, 112.

5. Ibid., pp. 113-14, 125.

6. Ibid., p. 107.

7. Ibid., p. 124.

8. Ibid., p. 126.

9. Ibid., pp. 73-74, 75, 76, 82, 83, 85, 86, 87, 88, 89, 94, 102, 107, 108, 111, 112, 114, 116, 118, 122.

10. Ibid., pp. 72, 75, 108.

11. Ibid., p. 109.

12. Ibid., p. ~~119.~~ 103

13. Ibid., passim, p. 88.

14. Ibid., p. 109.

15. Ibid., p. 67.

16., Ibid., p. 67.

17. Ibid., p. 98.

18. Ibid., pp. 104-05, 112.

19. Ibid., p. 73.

20. Ibid., p. 89.

21. Ibid., p. 103.

22. IBbdd,,pp. 68.

1. "A Brief of Opposition to Application of Connecticut Light and Power Company." October 18, 1974
2. "A Brief," p. 9. Benedict
3. Ibid.
4. Ibid., p. 10.
5. Telephone interview with Douglas Jordan, October 30, 1974.
6. Telephone interview with ------ -------*, October 29, 1974.
7. Telephone interview with Edmund Swigart, October 31, 1974.
8. Douglas Jordan, "Radiocarbon Dates for New England Archaeology," in An Introduction to the Archeology and History of the Connecticut Valley Indian. Springfield, The Springfield Museum of Science, 1969 (New Series, vol. 1, no. 1), p. 18.
9. Jordan interview, October 30, 1974.
10. Ibid.

* archeologist who requested anonymity and whose views were not used in preparing rebuttal testimony

1. Chester Dewey, "A General View of the County," in A History of the County of Berkshire, Massachusetts, [David Dudley Field, ed.]. Pittsfield, Mass., Samuel W. Brush, 1929.

2. Christopher Collier, Typescript, October, 1974.

3. Dewey, "General View," pp. 27-28.

4. Ibid., pp. 23-24.

5. Ibid., p. 27.

6. Ibid., p. 27.

7. Ibid., p. 26. Italics in original.

8. Ibid., p.1256.

9. Ibid., 176.

10. Collier, "Navigation," p. 9.

11. Samuel Orcutt, The History of the Old Town of Derby, Connecticut, 1642-1880. Springfield, Mass., Springfield Printing Company, 1880, p. 339.

12. Ibid., p. 343.

1. "Navigability of the Housatonic River: Report on Findings of Historical Evidence." (Woodhull)

2. Hickey to Allen Kosloff, Interdepartment Message, October 18, 1974. "Transmittal of Historical Research Paper on Housatonic River Navigability."

3. "Navigability," p. 1.

4. The citation is to Rollin G. Osterweis, Three Centuries of New Haven, 1638-1938. New Haven, Yale University Press, 1953, p. 23.

5. Christopher Collier, "Navigation on the Housatonic River in the Eighteenth and Nineteenth Centuries." Typescript, October, 1974, pp. 4-10. See also "A Further Note on Chester Dewey's History of Berkshire County" below.

6. William G. Andrews, "The Trading-House on the Paugasset," Papers of the New Haven Colony Historical Society, vol IV. New Haven, NHCHS, 1888, pp. 390, 393.

7. Ibid., pp. 388-389.

8. C.C. Coffin, "Ancient Fish Weirs Along the Housatonic River," Bulletin of the Archeological Society of Connecticut, Number 21 (December, 1947), p. 35. The oyster shell bar was blasted away in the nineteenth century, sometime before 1888. Coffin, p. 36.

Exhibit 21

BOATING TRIPS

ON

NEW ENGLAND RIVERS

BY

HENRY PARKER FELLOWS

ILLUSTRATED BY WILLIS H. BEALS

974.090
F33

BOSTON
CUPPLES, UPHAM, AND COMPANY.
Old Corner Bookstore
1884

B

210

to leave out nearly 900,000 Americans from the celebration of the nation's Bicentennial seemed unthinkable.

Reservation in 1886 have the descendants of the Joseph Band of the Nez Perce tribe had a place for the proper conduct of their ceremo-

New Hamp- shire.
NASHUA
MERRIMAC RIVER
HOLLIS
TOWNSEND
PEPPERELL
TYNGSBOROUGH
DUNSTABLE
NO. CHELMSFORD
LOWELL
TEWKSBURY
FITCHBURG
WESTFORD
CHELMSFORD
BILLERICA
LEOMINSTER
ACTON
LEXINGTON
BEDFORD
CONCORD
HARVARD
SUDBURY RIVER VIL.
MT. WACHUSETT
LANCASTER
NORTH BRANCH
NASHUA
CENTRAL R.R.
MASS.
SOUTH BRANCH
BOYLSTON
WORCESTER
SOUTHVILLE
ASHLAND
FRAMINGHAM
LAKE COCHITUATE
NATICK
ALBANY
BOSTON
WHITEHALL POND
HOPKINTON
Map of the Sudbury and Concord, and Nashua Rivers.
Scale of Miles

Exhibit 21

PREFACE.

It is the author's purpose, in the following pages, to describe trips he has taken in a skiff, from summer to summer, on one or another of our home rivers.

The initial article appeared, in part, originally in the Boston Courier, and the Cruise on the Housatonic in the Springfield Republican; while the trip on the Nashua is now published for the first time.

H. P. F.

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AN INLAND VOYAGE

ON THE

SUDBURY, CONCORD, AND MERRIMAC RIVERS.

CHAPTER I.

SOUTHVILLE. — CONCORD.

THE source of the Sudbury River is, I was about to say, among the clouds. It appears upon earth, however, in the form of two rivulets, one of which flows from Whitehall Pond, a beautiful sheet of water in Hopkinton, and the other, beginning from indeterminate places in Westborough, joins the Hopkinton branch just above Southville. Which is the Sudbury River we leave Hopkinton and Westborough to settle between them, although perhaps ere this, for aught we know, they may, in order to avoid controversy, have divided the honor. After the junction the river flows in an easterly direction to Ashland, and thence pursues a generally northeasterly course, until with the Assabet, in Concord, it forms the Concord River.

It was the desire of the writer and a friend in taking a boating trip down the river to obtain a rowboat at the pond at Hopkinton; but it appeared to be difficult to procure a suitable craft, and it seemed very doubtful whether the branch from the lake, in its several miles of flow to the other branch, was navigable; so we concluded to take a skiff to Southville and start from there.

to unite with the west branch just below Pittsfield. The river after the union of the two branches flows in a generally southerly direction through western Massachusetts and western Connecticut for about one hundred and fifty miles to Long Island Sound. It derives its name from the Housatonic tribe of Indians, which formerly inhabited its banks. I have somewhere read that Housatonic signified in the Indian tongue, "Over the mountains;" but I should think a more correct interpretation might be "Among the mountains."

I had an appointment to meet a friend at Pittsfield toward the latter part of September for the purpose of taking a row down the Housatonic — to enjoy a poem without reading. The skiff which was to embody the movement, the same one I had used in a voyage down the Sudbury, Concord, and Merrimac, was sent from Boston to Pittsfield about the middle of September by the American Express Company. The expressage was three dollars and ninety cents, double the ordinary rate. The fare from Boston is three dollars and forty cents.

Pittsfield, the shire town of the county, settled in 1752, and named after William Pitt, the great English commoner, has a population of about twelve thousand. It is situated in the triangular space formed within the two branches of the river. The Boston and Albany Railroad intersects the town like the bar of an A, the branches of the river representing the prolongations of

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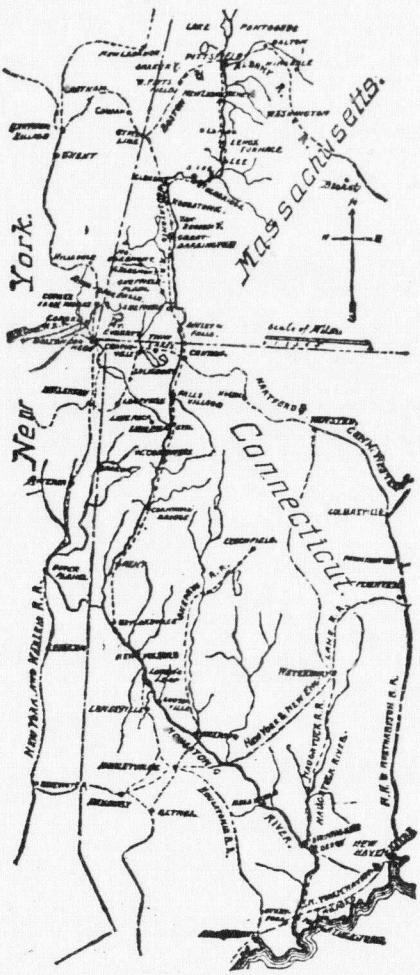

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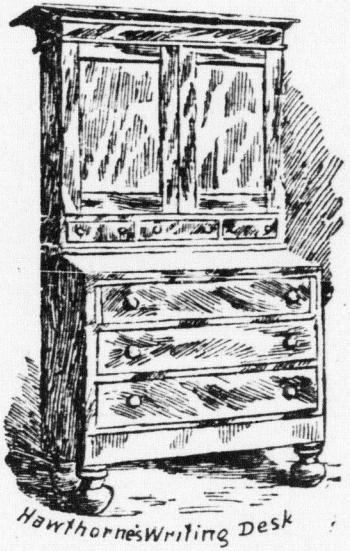
the letter. From a square about the middle of the town four streets radiate toward each point of the compass, called respectively North, South, East, and West Streets. On the north side of the square is the old Town Hall, while



Hawthorne's Writing Desk

opposite is a very handsome library of unique and artistic design. In the Athenæum in the upper part of the library is a small, old-fashioned, upright mahogany desk upon which Hawthorne wrote The Blithedale Romance, The Wonder-Book, and The House of the Seven Gables, while he lived in the little old red house on the north side of Stockbridge Bowl in Lenox.

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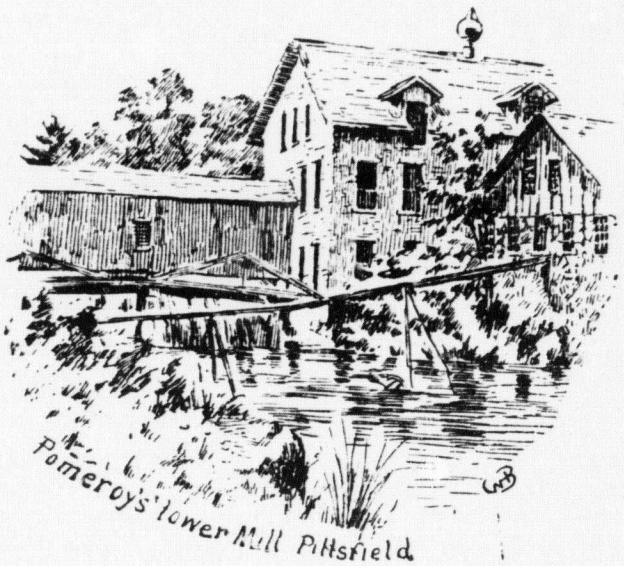
After dining at the American House, as the friend who was to accompany me on the river was busily engaged in concocting a brief, or some such contrivance, it was agreed that I should take the boat alone to Lenox Station, where he was to join me on the arrival of the five o'clock train from Pittsfield, and we were then to go on to Lee together. I proceeded to the office of the express company, and was there subjected to a petty annoyance without rhyme and with little reason. The agent declined to deliver the boat at the river at South-street bridge on the ground that it was beyond the schoolhouse, which he affirmed was the limit of delivery. It was beyond, but only a few rods, and it seemed as if there might be a slight concession to the exigency of the case; but no, the *ipse dixit* of the agent was as decisive as the fulmination of a Roman emperor. It behooved me, therefore, to find another place to launch the craft, and I soon ascertained that the west branch was navigable below Pomeroy's lower woolen-mill. Here, however, another difficulty arose. The aforesaid agent declined to deliver the boat until after five o'clock, so that it finally became necessary to procure a team at additional expense and a great deal of additional trouble.

The teamster and I put the boat in the river below the last building of the mill, which is on West Housatonic Street. It would be, however, an easy matter to get over

the dams of both woolen-mills. The boat had been in ordinary several weeks, and the instant it touched the water, to use the familiar expression, leaked like a sieve. By this time several operatives from the mill had gathered



around, and we lifted the boat on a walk, turned her over, and I was engaged an hour or more in caulking the widely distended seams, an operation in which one or another of the constantly relayed group of interested observers took a hand. It is always advisable to have a little oakum and oil-of-tar in boating. I had neither, I must

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admit, however, and had supposed there could be no possible occasion for anything of the sort, as the boat had been both caulked and painted in anticipation of the trip. We used cotton batting, the only thing available, which proved quite serviceable, though I suspect that the soaking in the water was the most effective remedy. I had invited any one of my co-laborers who felt so disposed to join me as far as Lenox Station, and when the boat was ready for its final launch a volunteer appeared, arrayed in his Sunday best.

We put the boat in once more and started on the voyage about three o'clock. The stream below the mill is about thirty feet wide, and winds very pleasantly in a small, narrow valley of its own. We soon came to a brand new wire fence which extended directly across our path and looked like a very troublesome obstacle, as the wires were full of sharp projections. Drifting to it, however, stern foremost, my passenger lifted the lowest strand over his head, I carried the thorny burden precariously over my own, and we passed under without a scratch. Just above South-street bridge we ran against a log boomed across the stream. We passed close to the west bank under the west end of the log by depressing the boat nearly to the gunwale in the water. I do not believe that the boat displaced quite so much water again during the trip. Pulling under the old wooden bridge immediately below, we rowed around a bend and bunted against another log

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lying across the stream. My companion in assisting to lift the boat over the east end lost his footing on the mossy bank, and slid into the water considerably above his knees, amid expressions of great disgust. We quickly got the boat over, however, and started on and soon came to another obstruction in the shape of a plank walk. We found just room enough, however, to pass under the east end with ease.

The river had been continually rapid, and we went swiftly forward, now past a clump of woods and now along open meadows with both banks and hillsides near at hand. The water, discolored by the refuse of the mills above, and darkened still more by dense, threatening clouds overhead, flowed with peculiar shady effects over a grassy bed in shallow places, though the bottom could not be seen at all in the deeper pools. There was always sufficient water, however, and after we got below the junction of the east branch, a stream about the same size and consistency as the other, we had an abundance. I allude to the state of the water, as the trip had been delayed on account of a fear that we would not have sufficient water to get along at all, as the season had been remarkably dry. I have little hesitation, however, in saying that the river from Pittsfield to Falls Village is navigable in a flat-bottomed boat at all times; and that one can indeed get along below Falls Village, too, although the greater the volume of water below that point the greater the pleasure of a trip.

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The river soon wound under another bridge and then writhed in extraordinary fashion in quite an extensive intervale. We loitered along its windings, the swift current beguiling us into thinking that we were making great progress and would easily reach Lenox Station by five o'clock. Greylock drifted to and fro across the rear of the valley in the distance to the north. Perhaps, however, it was the winding river that drifted to and fro. I know not how it may have been: the effect was the same, and even now in memory I see a blue mountain of vaguely beautiful outline, solemnly moving from side to side across a valley landscape, shadowily picturesque.

The clouds, however, threatened rain every moment, and the rising wind, blowing fresh as if from the ocean, added stimulus to our constant apprehension of an immediate downpour. It did not come, however, but the darkness above only served to bestow on all the valley an intense, deep, sombre green. No house was in sight, and all was silence. The river was as variable in its course as the wind is usually supposed to be, and sometimes, assuming that the wind was steadfast, we had the breeze at our back, frequently on one side or the other, and occasionally in our faces. After a while I resigned the oars to my companion, who had long been itching to row. He exerted his muscle with terrific force, and, as the boat was light, and easy rowing, and quickly turned, he produced some startling aberrations from the ordinary

line of our progress. His knees were the occasion of a great deal of trouble. Having once got the stroke well past those troublesome projections, however, he was all right for the rest of it. Taking one quite desperate stroke, however, after the usual interruption at the knees, there was a loud crack and the rowing-seat, which was thin and springy, broke into a half-dozen pieces and let the oarsman down to the bottom of the boat with a great shock. Luckily we had with us a stray board which we had used as a rest to keep our feet out of the water which poured into the boat in spite of the cotton batting, and this was made to answer for a rowing-seat, while thereafter we bailed oftener than ever.

And now the river had come to a woody mountain on the east side of the valley, and began a game of tag with the high and mighty dignitary. It ran up to the mountain, and then edged away in the devious ways known only to a river, and then again, after approaching the immovable and dignified mountain, bounded away over the meadows. After a while we heard a train whistling ahead, and, as it was past five o'clock, we concluded we were not far from Lenox Station. We had not once caught sight of the railroad, however. Pulling rapidly on we came to a bridge, the fifth from Pittsfield, I think, and below on the west bank was a large house. Inquiring of a boy where we were, he said at Dewey's Station, which is only three miles below Pitts-

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field. The boy — he was not an encouraging youth at all — gave a very disheartening account of the long distance still before us to Lenox Station; but both my companion and myself, voting him an ill-omened prophet, decided that there was nothing else to be done but keep on.

The river from Dewey's goes with an evener current, and renewed the game of tag with a range of mountains which begins just below. Soon after starting, the clouds, which mercifully for us had not dispensed rain, not even a drop, broke into fleecy mists and drifted away, tinged with a deep red glow by the setting sun. After a while we found ourselves on a dark river in a very dark landscape. And now my companion proved to be a companion indeed. Malachi was an optimist. He assured me every few strokes that it could not be far to Lenox now, and in truth I often gave him the same assurance in return. We were once startled nearly out of our wits by the voice of a [illegible] We had not perceived him at all when he broke the deep, black solitude by asking us if we could assist him to splice the main brace. We explained that we were not sailors, only oarsmen. In vain I endeavored to ascertain whether we were in the pond opposite Lenox Station, but I could not tell when we passed through it, nor see the station, though we passed within fifty yards of it, and Malachi was as ignorant as myself. We finally pulled under

a bridge, and, just below, the bow of the boat grated harshly on the gravel at the edge of a stone dam. Entirely unfamiliar with the locality, and, as we had apparently not passed through any pond, thinking that we had not yet arrived at Lenox, we nevertheless moored the boat, as the channel below the dam was dry. As a matter of fact, the dépôt of Lenox Station was at the end of the bridge we had just passed, but having no suspicion of it, and still encouraged by the optimism of my friend Malachi, whose tendency, as well as my own, was forward, we walked down the track with alternations of doubt and conviction, a mile to Lenox Furnace; and then, after sending a telegram to my intended fellow-voyager who had gone on to Lee, we retraced our steps to Lenox Station, where, upon the departure of the nine-o'clock train that carried Malachi back to Pittsfield, I took the stage to Lenox, distant two and one-half miles, and found shelter, which I had at one time seriously despaired of obtaining, at Curtis's Hotel. In the office I gazed with a present sympathy upon an allegorical picture which graced one of the walls: "The Voyage of Life — Old Age." On the hearth the embers of the fire sent a thrill of warmth through me, for the night air was cold, and supper, a ten o'clock one, — the table is excellent, — soon sent another of a different and better kind. The hotel is quite a fashionable resort and performs its share in what Mr. James, in his note about Hawthorne (a very

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about. The dam is just below the bridge. If water is pouring over the dam, the best way to get around is to go to the west shore, and carry around the grist-mill, putting in under the barrel-flume below. The water was so low that we let the boat down over the middle of the dam. We pulled by the furnace, which has an air of ancient greatness gone to rack and ruin, and in a few minutes came to another dam of the Smith Paper Company. We carried two or three rods, and put in the sluice-way on the east side of the dam, and thence floated down to the mill, where we carried the boat around the mill on a wheel-barrow, and put in the tail-race just below. A high bank made it awkward to launch the boat, and the stern dipped some water. After bailing, several hundred lucky-bugs that had been scooped in remained and beat an incessant and multitudinous tattoo. The water ran swiftly in the race, and we soon emerged into the river. Ere long we came to an island, and attempting to get by got aground, and had to go back and take the west side, where is an abundance of swift water. Immediately below, the river spread out over a gravelly bed, and we had very hard work to push over. The banks are quite picturesque here, especially just above and below an old wooden bridge. A range of mountains which borders the valley on the east adds fine emphasis to the scene. All admiration of scenery, however, was soon stopped by another dam, which furnishes motive power to the Columbia Mills. If the water is

high, the best way to get by is to pull over the embankment on the west side. We made a carry on the east side with a wheelbarrow. Then a short pull over a pond-like stretch of water, past a row of houses on the east side in the village of Lee, brought us to the dam of the Eagle Mills. If the water is high, it is better to carry over on the west bank. We had a hard tug of it on the east side, taking out just above the mill, and lugging the boat across the road before we could put in. Immediately below is the dam of the Housatonic Mill. Here it is necessary to put in the sluice-way on the east side. We left our boat at the bridge just above the mill, which is very nearly the centre of the village.

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CHAPTER II.

LEE. — GREAT BARRINGTON.

LEE is an energetic and thriving village, having a much more business-like appearance than other towns along the river. The most striking feature of natural beauty is Fern Cliff, a rugged ledge of granite, crowned, however, with graceful trees, that frowns upon the town just back of the principal street. We remained at Lee two days, and one afternoon attended the annual meeting of the Fern Cliff Association, a society which has for its object the improvement of the streets of the village, and chiefly attending to sidewalks and crossings, and setting out shade-trees and shrubbery. The meeting was held on Fern Cliff, which commands a very fine view of the houses of the village below, and the river and Berkshire Hills. A very eloquent address was delivered by the Rev. Washington Gladden, on The Use of the Beautiful. The accomplished orator spoke in the open air, in the midst of a scene of beauty that was indeed an omnipresent commentary on his theme. There is an association of the same character at Stockbridge called the Laurel Hill Society, from an elevation near by, which has wrought a marvel in the appearance of that beautiful place, and keeps it in a marvelously fine condition. It

is to be hoped, indeed, that a society having the same object will spring up in every village throughout the land.

The customary and favorite drive from Lee is to Lenox, distant about three miles. The distinguishing characteristic of Nahant is brown paint, Newport affects the veranda, and Saratoga the broad piazza; but life at Lenox is incomplete unless one lives in a house sided

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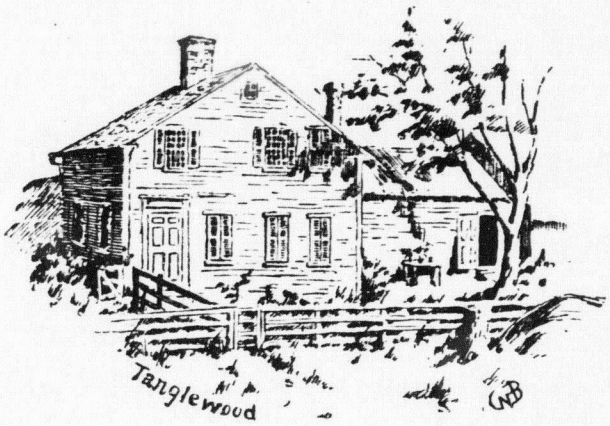
with shingles. There is the old-fashioned colonial mansion, too, and the more modern box, and a great variety of styles besides. Formerly the county seat, the old Court House and town buildings impart to the village an exaggerated idea of past importance. It overflows with fashionable life through a long season. There is also, withal, a distinctive literary flavor about the town. Hawthorne, Beecher, Holmes, Mrs. Kemble, Miss Sedgwick, Miss Cushman, have all lived there at times; while Longfellow, James, and Melville have dwelt in the valley near at hand. It has, however, as its crowning glory, a constant vision of a broad landscape of valley and mountain, indescribably blended in beauty. The drive is then, ordinarily, to the top of Bald Head Mountain, which commands a fine prospect of the "brilliant and generous" landscape. The view southward is, in truth, superb. Below, near at hand, is Stockbridge Bowl; beyond, rising above fertile upland and lowland, a rolling plain of field and forest, is Monument Mountain, while a range of the Green Mountains guards the valley on the east, and the Taconic range, which mounts high up in air in the Dome, runs along the western side. Then the drive is along the road that leads near the northerly edge of the Bowl, by Tanglewood, made famous as a residence of Hawthorne. It is a small, red house, with a wing on the west side, which was formerly the east wing. Apart from this change, however, and a few slight alterations within, the

house is the same as when it was occupied by Hawthorne. On a glass in one of the windows is still preserved the inscription, cut in the author's own handwriting, "Nath'l Hawthorne, March 21st, 1853." There are open fireplaces in two of the rooms, but its chief value as a residence is the beautiful landscapes the windows on the south side of the house frame of the Berkshire Hills.



From Tanglewood a road leads direct to Stockbridge, one of the most beautiful villages in the Housatonic valley; and thence one may return to Lee either by a road over the hills or along the river. This drive is, throughout, in a region of fashion. One is, indeed, almost as likely to meet a four-in-hand as a farmer's wagon. Fine residences are frequent, and everywhere are evidences of careful cultivation.

Exhibit 21

There is a lonesome drive, however, east of Lee, which is very fine in its way, and in some respects superior to the other. The road leads just north of the village, through a long, steep, woody pass between two mountains to the town of Washington. The original settlers have of late years, though, for the most part, descended into the valley or flown westward, and a foreign population has largely succeeded to the old farms; and now upon the high lands here, remote from city or village, many a son of Erin cultivates his scanty potato patch, grazes his cattle, and views with utmost complacency a noble landscape of tumbling mountains. Then continuing south along the upland to the road from Becket, you turn westward, and from the summit of the mountain, as you prepare to descend, the view is more than simply beautiful: it is grand. The road itself is visible only a short distance as it winds down the side of the mountain, and there is naught else to be seen but a billowy sea of forests, rising and falling in mountain crests until they dash upward in the distant horizon in the misty hights of the lordly Catskills. The striking feature of the scene, due to the singular vantage of the point of view, is the utter absence of anything like civilization, even a cultivated field. You might be among the fastnesses of the Adirondacks or the wilds of Maine, for aught that appears The road below is winding and steep in places, but from East Lee pretty level and straight to Lee.

On Saturday morning we renewed the voyage. We carried the boat around the west side of the mill and put her in the tail-race just below, and got off at ten o'clock on a swift current of Tiberish yellow. We stopped on the west shore, just below the outlet of the canal, and climbed up the bank, over the refuse of a quarry, to the edge of the excavation which looked like an inverted windowless palace of white marble. It is a singular fact that white marble is frequently used in and about Lee for foundations and walls, seemingly a base prostitution of pure and valuable material. The river is narrow, and winds very pleasantly with a rippling current past the East Lee valley, and then at the mouth of the wider valley which runs between two mountain ranges to Tyringham, pursuing here, for many miles, a westerly course as far as Glendale. The Housatonic is, in truth, a confirmed coquette, constantly flirting with one mountain range or another, and frequently several at the same time.

Our sudden and unexpected appearance was the occasion of stampeding several horses, and quite often an affright to the patient cow who usually turned and clumsily trotted away in a state of mild distraction. We rowed very close to two Alderney bossies, however, who stood with forefeet firmly planted in the water and gazed at us with melancholy surprise in their wide-open, innocent brown eyes, curiosity evidently overcoming their fear. After rowing about an hour, we met two boys com-

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ing up stream with an effort, in a light outrigged pair oar, who turned about and accompanied us under the railroad bridge, and thence, across the pond, to the dam at South Lee. We put ashore on the east side, and in a few minutes (twelve in all, I believe), with the help of the boys, had carried in front of the mill of the Hurlbut Paper Company, and after sliding the boat over a stone embankment opposite the middle of the west side of the mill, launched her on the river. Just below the mill we entered a westward sweep calmly curving between bordering trees, and pulled away from a steep, densely wooded mountain slope which rises sheer from the east end, and seemed to grow higher and higher with every stroke. A rock peered out of water here and there, but there was a fair current and the going was very delightful all the way to Stockbridge. Just above the village, we passed under a slender bridge which leads to Icy Glen, half a mile distant on the east side, where ice is said to remain all the year round. At one o'clock we pulled ashore under the west end of the bridge which leads from the station at Stockbridge, to the village.

Stockbridge is a singularly beautiful New England village. It is located on a broad and fertile intervale close to the Housatonic. The principal avenue, which is a little over a mile in length, is nearly straight and nearly one hundred and fifty feet wide in its widest part. It is, of course, well shaded by long rows of trees, and is

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kept scrupulously clean. The houses beneath the drooping elms are very tasteful, and there hangs about the entire village an air of aristocratic quiet very graceful and becoming. Stockbridge obtains its chief distinction as having been the residence of Jonathan Edwards. The house is still pointed out where he wrote his most famous production, The Freedom of the Will. A monument has been erected to his memory in Stockbridge Street. At the lower end of the street, on a slight elevation, is an uncouth, unhewn stone, perhaps thirty feet high, and upon the base the inscription, "The Ancient Burial Place of the Stockbridge Indians — The Friends of Our Fathers. 1734." There are many beautiful residences in and around the village, among others the summer home of David Dudley Field, the well-known New York lawyer, Henry M. Field, the editor, and Ivison, the book publisher. The towns of Great Barrington and Stockbridge, Lenox and Lee, are all indeed fine tributes on man's part toward the adornment of a remarkably picturesque and beautiful region.

We dined at the Stockbridge House, which, like Curtis's Hotel, abounds in old-fashioned colonial bric-à-brac. Among other furnishings are fine ancient stoves for open wood-fires. One is surmounted by a huge iron dome that embodies a strange conceit of the beautiful in ornamentation.

We got under way again at two o'clock, and greatly

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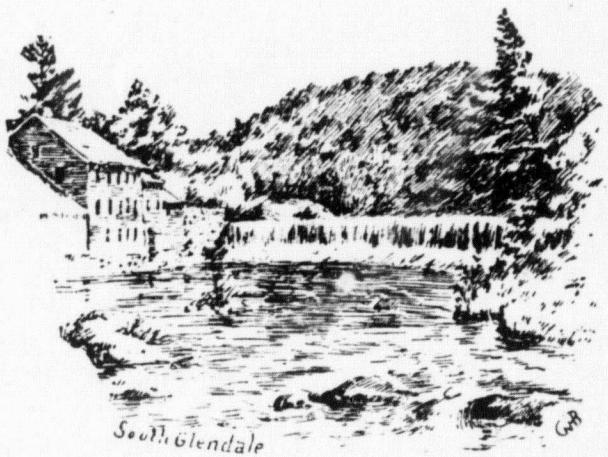
enjoyed the sail along the winding, watery lane below the bridge. The river is very crooked. At one place we approached quite close to a church and the stone tower, inclosing a chime of bells, erected in commemoration of the site where John Sargeant first preached the gospel to the Indians, and presented to the town by Mrs. David Dudley Field, and then shot away, leaving it behind forever, as we supposed. The river, however, after wandering a long way eastward, returned again almost to the base of the tower, I was about to say, and the tower disappeared and came into view several times thereafter. Below we passed around the ox-bow. The banks were frequently lined with willows, and were often dense with masses of creeping vines. We pulled by a very cosy landing on the east side, where were moored three boats of a high and dainty aspect. I should think, indeed, that there would be more boating here, as the stream is wide, the current slow, and the banks and all the scenery remarkably fine. The river is superior on some accounts to the Concord at Concord, simply lacking boating cultivation. It flows slowly to Glendale, where there is a dam and mill. We bunted the bow of the boat against a corner of the bulkhead on the west side, directly in front of the tower of the mill, and procuring a wheelbarrow wheeled the boat around. It was only seven minutes from the time we touched the bulkhead before we were again under way in the swift current below the mill. In a few

minutes the river makes an exceedingly acute bend, which the railroad follows on the east bank. At the end of the bend is a high dam with a red mill on the west bank below. We landed at the easterly end of the dam and made the carry over it in about twelve minutes. The



channel below is quite wide and shallow, and is best navigable on the east side. Just below the mill, however, the various streams unite and pour through a narrow channel, in which are two large rocks set diagonally in the current a little way apart. The oarsman intended to go near the west shore; but the current proved too strong and swept us down toward the rocks with great

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force and we passed between them with a rush, and, luckily, without touching. The river below is shallow and rocky. It is not dangerous, but very bothersome. We bumped on rocks, and every once in a while hitting some obstruction, let the boat swing around, so that we sometimes went bow on, though most of the time, and such was our intention, stern foremost. The Housatonic Railroad crosses the river on a bridge just above the end of the shallows. The stretch of rapids is a short half-mile in length, though a very long one indeed it seemed in reality. Not far below the end of the shallows is a fall, safe to run at almost any stage of water. We plunged through stern foremost in fine style, and then passed between the fragmentary ends of a ruined dam by some miserably old and wretched abandoned buildings on the east bank, going at a lively pace in swift water. Shortly below, — I think it was here, — the river divides into several channels, and we wandered a long time through one, a delightful, narrow, leaf-embowered water-path, where the current ran deep and swift through many a circuitous crook before finding its way to the main stream again.

The river rounds the northerly end of Monument Mountain and then half way along its westerly side, until stopped at the dam of the Monument Mills, at Housatonic. The mountain, covered with a scraggy growth of trees, rises precipitously from the water. Near the

summit are rugged façades of rough granite. The summit, which is in the middle of the valley, commands a wide, circular view of great beauty. The elevation derives its name from a tradition that an Indian maiden, blighted in love and unable to overcome her passion, sought relief and eternity by jumping from one of the cliffs. Her body was interred where it was found, and above her grave was built up "a cone of small, loose stones." Every visitor thereafter, even when all her dusky compatriots had vanished from the scene, added, as in duty bound, a stone to the pile, which at length became a monument of imposing dimensions. A veritable iconoclast, however, put an end to the venerable custom a long time ago, by scattering the pile to discover what was beneath, and, most proper retribution, found nothing for his trouble. The mountain itself, which had always within memory been called Monument Mountain, is now, indeed, the single eternal memorial of her sad fate.

The story is very happily embalmed in verse by Bryant.

Hawthorne compares Monument Mountain, clad in rich and diversified autumnal foliage, to a huge, headless sphinx wrapped in a Persian shawl.

We landed by a clump of willows on the west shore, and at the village store found a team, upon which we were carried, with the boat, across the bridge and around the end of Cone's Mill, where, after a delay of only twenty minutes in all, we put in the tail-race and swiftly floated

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into the pond above Cone's new mill, which is about half a mile below the other. We landed at the west end of the dam, and without much trouble hauled the boat over a gravel embankment, and after sliding her down the lower side, started on. Only a slender stream of water was pouring over the dam, and we found the channel below very shallow in several places; and just above a wire fence we had to take the boat out and lower her by means of a cord at the bow and another at the stern, into the end of the tail-race. The mill comprises two large buildings of brick, with stone trimmings, and it is altogether the handsomest mill structure on the Housatonic. I should think all the dams at Housatonic might be carried by on the west side; but they are so near together, and the carries would be, the first so long, and all so troublesome, that it is a saving of time and vexation to get a team.

And now, without fear of further obstruction, we were fairly on our way to Great Barrington. The river seems to pursue a diagonal course over th Great Barrington intervale. We pulled as rapidly as possible, as the shades of evening were beginning to fall, and the cool air was an inducement to keep a-going. The sun after a while disappeared in a cloud of fire behind the Taconic dome which towers two thousand feet above the valley, leaving the slope in view, a solemn mass of darkest green, while Monument Mountain, at the other end of the valley, stood out in a purplish glow, clear and distinct in the still air.

I remember no river scene, indeed, of greater beauty. The stream itself, too, was very beautiful. The banks on either side sloped down to the water's very edge of smooth turf, oft broken, however, by a clump of trees or

Old House at Great Barrington

masses of clustering vines; and we occasionally passed a little inlet, usually guarded by a martial array of cat-o'-nine-tails.' Later, the water was smooth as polished black marble, and reflected, with gloomy accuracy, the dark banks and the floating boat whenever we ceased to row. We came to the first bridge, which is just above the dam

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at Great Barrington, as a tuneful clock in the village was chiming the hour of seven. We tied the boat fast near the west end of the bridge, and having stowed our heavy baggage at a curious, old, rambling, tumble-down house close by, we found shelter at the Berkshire House, a very substantial hotel.

There is a stateliness and dignity about Great Barrington as great in reality as its high-sounding name would imply. It is a rare combination of New-England thrift and New-York opulence. Beecher, it is, I believe, who once declared that he never entered the village without wishing that he was never to leave it. Here Bryant practised law before finally straying into journalism and the more congenial field of literature.

Great Barrington is in the midst of a fine region for drives. The road to the top of Monument Mountain is deservedly in favor, while one of the finest drives in Berkshire is through North Egremont, and then by way of Hillsdale, a town just over the border of Massachusetts, in New York, to Bash-Bish Falls, in Copake. The crest of a hill just above Hillsdale commands a magnificent view of the Catskills and an extensive view of the Berkshire hills, whose broad slopes, blooming with cultivation and beauty, roll upward, in the far distance, beyond a fertile expanse of territory where the valley is widest.

There is another way to Bash-Bish: through South

Egremont, and thence over the mountains; and this is perhaps the most picturesque drive of all. The view of the Taconic range, as one goes westward over the country, which is comparatively level, to the foot of the mountains, is especially fine. The Dome of Mount Everett, alone, remains unchangeable upon its huge, buttress-like foundation, as one draws near; but elsewhere, the mountains break, from time to time, into new and beautifully varying shapes. The view of the Taconics is essentially the same over the Hillsdale road, but the way, as one mounts upward through the valley between the mountains, especially if the day is warm, is, upon the whole, rather more agreeable, and very attractive withal. The music of a brook alongside the road at length dies away, however, and as you emerge from the thick woods, you come upon the now quite famous Goodale Sky Farm, airily perched high up on the mountain-side, where there is a most enchanting view through the verdurous walls of the long valley up which you have just come, and over a beautiful landscape beyond to Greylock, fifty miles distant. Soon thereafter, the head of the valley terminates upon the table-land of the town of Mount Washington, which is surrounded on every side by mountain tops, which peer up here and there, above the edges of the plain, as if they were playing a game of bo-peep.

Soon descending, however, from this high and charming region, the delight of the ubiquitous summer boarder,

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one hears again, from amidst the shady recesses through which the road, for the most part, wanders, the accompaniment of a running stream, or sees it tumbling over its rocky bed; and opposite Eagle's Nest, just above the head of the Bash-Bish ravine, is a superb view of the towering Catskills, which, as one gazes through the framing walls of the valley, rock-ribbed on one side and densely wooded on the other, look in the distance, beyond the broad and beautiful expanse of country intervening, like blue barriers of eternity.

The name Bash-Bish, which was originally bestowed upon the falls by the Indians, signifies, it is said, Wild Waters. A hotel has been built near the foot of the falls, at the head of the ravine, which is indeed altogether a delightfully wild mountain nook.

CHAPTER III.

GREAT BARRINGTON. — KENT.

EARLY Monday morning we carried the boat around the east end of the dam of the Berkshire Woolen Mills, and put in just below. We threaded our way

among the rocks under the foot-bridge of the mill and a passenger bridge just below, and then swiftly drifted stern foremost through a stretch of rapids, past a deserted

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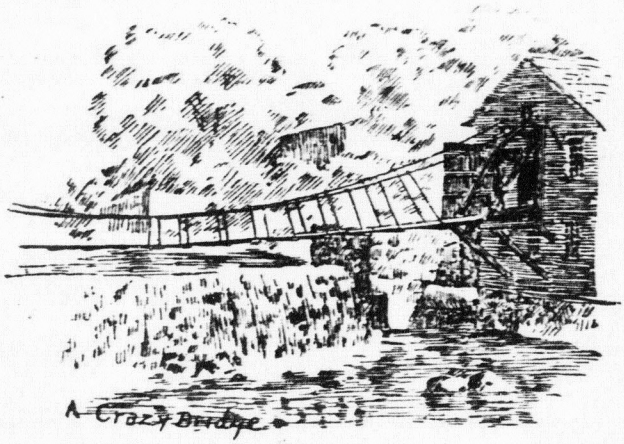
mill on one side and the houses of the village opposite. The sun shining on the turbulent water gave it the appearance of molten lead in violent agitation, and it was at times difficult, on account of the perplexing glare, to guide the boat aright among the rocks, though the rapid is not in the least dangerous. We soon came to a bridge



in the reach below, pulled up under the west end at seven o'clock, and leaving all the baggage in the boat, walked to the hotel, which is at the corner of Bridge Street and Main Street, for breakfast. In the History of Great Barrington, by Charles J. Taylor, it is stated that the bridge is eight hundred and forty-five feet above the level of tide-water.

On our way to the hotel we met a man who would, one would imagine, have little difficulty in proving a mistake of identity if occasion required, as he wore a heavy imperial, one half of which was white and the other red. Six witnesses having looked at him from one side would swear, without a moment's hesitation, and correctly, that he had red whiskers; and another half dozen would swear with equal facility that they were white. The fable of the knight of the gold and silver shield might indeed easily be replaced, in lower Berkshire at any rate, by the instance of the man with the red-and-white imperial.

A little south of the Episcopal Church in the village is an old house, which has been standing unaltered for nearly a century and a half, "the quaintness of its architecture now presenting" — I quote from an unknown correspondent — "a strange and interesting contrast to its modern neighbors. In 1777, General Lincoln and staff were quartered in the house for a few days before being sent with the Massachusetts troops to oppose Burgoyne's advance from Crown Point upon Bennington. Three years later, in 1780, it sheltered Washington on his journey north from Hartford. Within its ancient walls William Cullen Bryant, while practising law in Great Barrington, wooed and wed Miss Fannie Fairchild; a union," the writer adds, "that in every way fulfilled the beauty of its promise." There, also, Bryant wrote Green River, A Walk at Sunset, To the West Wind,

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and one of his longest and most notable poems, delivered before the Phi Beta Kappa Society of Harvard in 1821, the year of his marriage.

We started again at eight o'clock, and found the going remarkably good, but as remarkably crooked. Language is indeed inadequate to convey an idea of the fantastic turnings of the river. In about an hour we came in sight of the Leavitt Mansion, on the east bank. The river swept by apparently, but soon again turned to the mansion; and then, after rambling about the meadows a while, returned once more, and then gliding under a bridge, which is only two miles from Great Barrington, approached the base of a woody hill, and the mansion finally disappeared as we pulled south through a comparatively long reach. Soon, however, the river turned from the mountain at a point where the steep slope has been denuded of trees, leaving exposed a broad strip of rock-ribbed surface, sharply defined at each edge from base to summit, by dense green woods, — a peculiar transformation that frequently occurs in the valley below Falls Village, — and began to ramble once more in the wide intervale.

By and by we passed the mouth of Green River, a stream celebrated in the verse of Byrant, which was most appropriately named, as its waters are of a decided greenish tinge. The Housatonic itself, transparent as air, reflected every grain of sand and parti-covered gravel and flowing

weeds in the channel with luminous softness, except where the current slowly flowed into deep places. Often schools of fish broke from under the boat, scattering in rays like a shower of arrows. Trees lined the banks from time to time, and added constant variety to the continually varying course of the river. It was indeed a place in which to linger; but we pulled on at a steady pace, and after a while passed under a red bridge, just below which is a little fall, and then continued on to an old wooden bridge that leads to the north end of Sheffield Street, a long, shady avenue, with houses on either side.

Sheffield is indeed a handsome old town; but it has a torpid appearance as if it were dozing under its sleepy elms. The municipality of Sheffield, England, would, I have little doubt, pay a round sum, if it could have its namesake transplanted just as it is and set down somewhere in the busy region within its corporate limits. Below, the bed of the stream was occasionally filled with trunks of trees that sometimes almost blocked up our way.

A half-hour's pull brought us to another long, covered, weather-stained bridge. The road from the west end leads direct to the middle of the village of Sheffield which is only a short distance away. Here we pulled up for a while, and my fellow-voyager, after we had partaken of some sardines, used the oil on his boots and pronounced it good. The river then winds worse than ever, if it were possible, until it approaches a range of hills on the east side of the valley,

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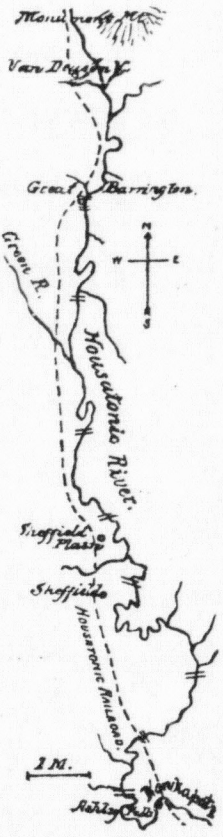
whereon are several houses, the first, excepting, perhaps, at rare intervals an isolated building, we had seen since leaving Great Barrington.

We pulled the boat ashore at the end of a reach under the hill and at one of the farm-houses had a sumptuous repast of rye-bread and milk and canned fresh beef we had taken with us. On returning to the boat we found in the brief interval of our absence an entire change had come over the face of nature. The air had been sultry before and we had had a warm time rowing between the high clay-banks which are characteristic of the river below Sheffield. The wind had suddenly veered to the northeast and was cold and raw, mists rolled around the top of the Dome, and clouds were scudding furiously across the sky. We started at two o'clock, and before going a dozen strokes were enveloped in a scanty sprinkle of little rain-drops, and then another until the rain poured in torrents and battered the surface of the river into a long sheet of deep-fretted



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water. We protected ourselves with rubber coats and pulled on, and in about an hour rowed under the road bridge and a railroad bridge which cross the river side by side. The village of Ashley Falls is about a mile distant from the bridges on the east bank. The erratic river then trends across the intervale in long zigzag reaches to a group of houses on the west bank. The wet buildings, exhibiting no signs of life, enveloped in the melancholy haze of rain, looked dreary in the extreme. The reach, immediately below a bridge that spans the river just below the group of houses, ends against the rocky face of a mountain spur that turns the river eastward. The river again approaches the mountain below, however, where a rocky cliff stands guard, and above, a broad field of brown heath, dotted with stones, stretches in grim realistic fashion to the base of woods that crown the summit. The reaches here are all longer and wider, and the banks, which are quite high, were fairly ablaze with brilliant autumnal color. We had often since leaving Housatonic pulled by an uncouth looking scow, lying against the bank, and here we passed a hideous looking craft which had two names. "The Old Sal" was painted on the stern and on the side near the bow. "The Great Eastern, owned and navigated by ——;" an odd vagary of fancy. About five o'clock we saw before us the bridge of the Hartford and Connecticut Western Railroad. Just above it is a short rapid. We landed

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at a farm-house just below the bridge on the west bank and walked to Canaan, a mile distant on the east side of the river, on the railroad.

Canaan is a sort of Mugby Junction. The tracks of the Hartford and Connecticut Western and Housatonic Railroads intersect at right angles at a corner of the station. There are two hotels in the village, but, apart from the noise of trains, Canaan is not a remarkably lively place.

We got under way Tuesday morning at nine o'clock. The river flows deep and tranquil below the bridge, until it has disappeared around the first bend, where we glided through a gently flowing rapid. We had passed a great many pumpkins afloat on the river from time to time during our morning row and the day preceding, and we had been tempted to use one of the grotesque, dumb yellow masques as a sort of jack-a-lantern ornament to our prow. After a while we pulled under a bridge, and, as we were rowing along close to shore, we discovered at the edge of the water what at first we supposed was the sloughed off skin of a snake; and then the dead root of a tree. It turned out to be, however, the crumpled horns of a skeleton ram's head. We at once made it fast to the bow, and thenceforward had a weird and imposing figure-head.

The river flows in somewhat regular long reaches, with a smooth current, to Falls Village. Twice, however, at a stated interval, the river turns sharply almost north-

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ward before resuming its southward sweeps. Mountains guard the valley on either hand, but the intervale and near hills give evidence of careful cultivation. We were indeed passing through the last intervale region on the river. The scenery is not so strikingly beautiful as in the Great Barrington meadows, but the river itself is, if it were possible, more beautiful. At Falls Village, however, the mountains come close to the river, and thereafter remain constant near guardians to the end; and the river is, for the most part, rough and rapid, foaming with only brief intervals of rest through narrow mountain valleys.

We reached Falls Village, which is the gate-way of this wild and lonesome region, at eleven o'clock. The descent of the river from Pittsfield to the State line of Connecticut is two hundred and ninety-five feet, while the descent from the State line to Derby is six hundred and twelve. The actual distance from Pittsfield to the State line is about one third the distance from Pittsfield to the mouth of the river; but the river in Massachusetts, on account of its crooked windings, is about as long as the river in Connecticut.

On account of the low stage of the water, we carried over the rocks of the upper pitch of the falls in the middle of the river, and then, rowing past the repair-shops of the Housatonic Railroad on the west bank, we hauled ashore just above the railroad bridge, and let the boat float along down to the edge of the principal fall,

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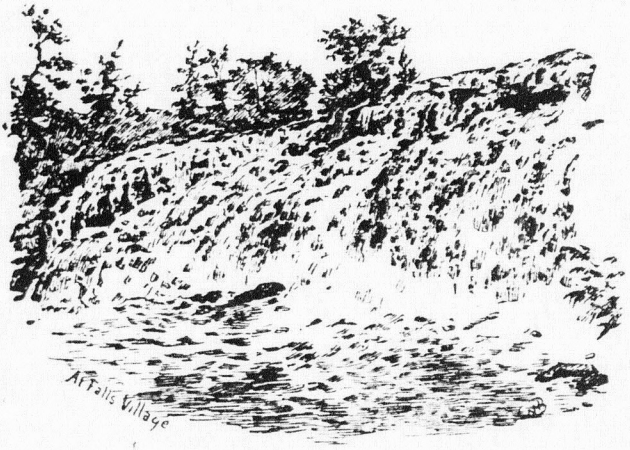
with a cord. The river makes a plunge here of thirty or forty feet, with considerable roar and blowing spray. We then dragged the boat over the rocks a short distance on the west side, and lowered it over a steep cliff to a ledge below, where, by means of a long cord at the bow, and



another at the stern, we let her down to the water at one side of the fall. We tried to run the rapids below the fall, but the channel was narrow and strewn with rocks, and we, therefore, concluded it was the part of discretion to let the boat through with a cord, while we walked along the east side of the principal channel in the middle of the river. Arriving at the end of our footing, we got

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into the boat and pulled to the west side of the river, where we used the cord once more, to get by the third pitch. Our operations had attracted quite a crowd on the bank, and an entire district school, with the teacher at the head, was narrowly observing every movement. My fellow-voyager then took the oars, as the water was shallow and turbulent, while I walked along the west shore and awaited his coming under the bridge at the village.

Just above the bridge, the channel winds among rocks, and the oarsman, in an endeavor to escape the first one, got the oars out of the row-locks, and, before he could replace them to pull back, the boat drifted broadside on a rock that peered out of water immediately below, careened, filled; and the water, rushing into the boat, washed oars, carpet-bags, and all our provisions down stream. The last I saw of my carpet-bag, it was placidly floating in the middle of the river, some distance below, the handle just out of water; and then the waves closed over it. The oarsman stepped on the rock when the boat began to fill, and, after breaking a paddle, all his further efforts to keep her from sliding down still deeper proved unavailing, and the boat finally lodged about a foot under water, and the current, rushing in, held her immovably fast. There was nothing to do but strip and plunge in, and after a half-hour's manœuvering, the boat was turned over and edged along to another rock, below, where the water poured against the bottom of the boat. The long

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rope at the stern was then caught and thrown ashore, whereat a man pulled hard, and by half-inches at a time, the boat was hauled into the stream and floated over a short rapid; and after the water was bailed out I put back to the rescue of my fellow-voyager, who stood, to the utter amazement of late comers on the scene, after the boat had got wedged against the second rock under the bridge, dry shod on the upper rock in the middle of the river upon a rather precarious foothold. On getting to shore, he stripped to unmentionables also, and by repeated divings rescued all our canned goods, which glittered in the deep water just below the place of the overturn. Then keeping on down stream with one rescued oar, we fished our carpet-bags out of the stream below, and picked up the other articles a boy had rescued and left on the bank, and started on down river in search of the missing oar. We eventually missed, besides the ram's head, only a few things of no great value. We passed through three reaches of swift water, and then came to a wide, open bay, where, two hours after the accident occurred, we found the oar imbedded in weeds. We had been induced, by the low stage of the water, to try the falls, and naturally were somewhat provoked after getting by the three upper pitches, which are really difficult, — I doubt very much indeed whether they were ever attempted before, — to get wrecked on a couple of paltry rocks at the very end. It is no doubt much better to

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land above the first pitch on the west side at a solitary barn, and, indeed, quite necessary, I may say, as the water is seldom lower than when we took our trip, and get a team to carry you over the bridge below the lower pitch to the east shore, where it is an easy task to launch a boat in good water.

The scenery below Falls Village, especially just above and below Lime Rock Bridge, is wild and grand. A range of mountains with a very ragged edge stretches away from the river on the west, while mountains covered with green woods slope up from the river on the east. The village of Lime Rock is a mile from the west end of the bridge, and, it is said, contains several fine residences, among others, that of the Hon. W. H. Barnum of State and national reputation.

As we journeyed on we saw many brilliant sunset effects on the mountains along the east side of the narrow valley. Now, upon a dark green slope was outlined, in bright yellow sunshine, the form of one mountain ridge on the west side of the valley, and then again, another. I remember distinctly how the upper part of one long ridge was gilded with brilliant, almost dazzling light, while all the valley below was filled with intense, deep, sombre hues; and we often saw the sun rise and set over the sloping western ridges. The river, most of the time, pours along over fretted stones; and the scenes, as night closed in, were extremely wild, almost weird. The moun-

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tain ranges were, for the most part, covered with trees, but occasionally a mountain had been stripped bare, and the naked granite looked desolate and dreary in the extreme. We often saw a strip of bare waste girdling a slope where wood-choppers were still at work, and frequently, near at hand or afar off down the valley, perhaps close to a mountain summit, the flowing smoke of a charcoal pit; and when night added brilliancy to the glow of the fires that flamed here and there on the dark slopes, it seemed as if one were in the midst of one of Grimm's tales, in a land of dragons and gnomes.

About seven o'clock, we saw the twinkling lights of West Cornwall, a decided misnomer, as the village is on the east side of the river, and we made fast just above the dam. We found refuge at the Mansion House, where we were long occupied, both before and after supper, in hanging our wet clothes on a dryer in the kitchen, and were often, I fear, in the way of two young, and pretty, and remarkably lively stepping dames of the domain.

Our shipwreck had opened the seams of the boat considerably, and before embarking next morning, we were engaged, an hour or more, in filling them with cotton batting and putty. While at work, a man told us about a trip that three canoeists from Boston had made down the river the previous year, and pointed out the shed in which they had stored their boats over night. We had heard of the party from the proprietor of the Berkshire

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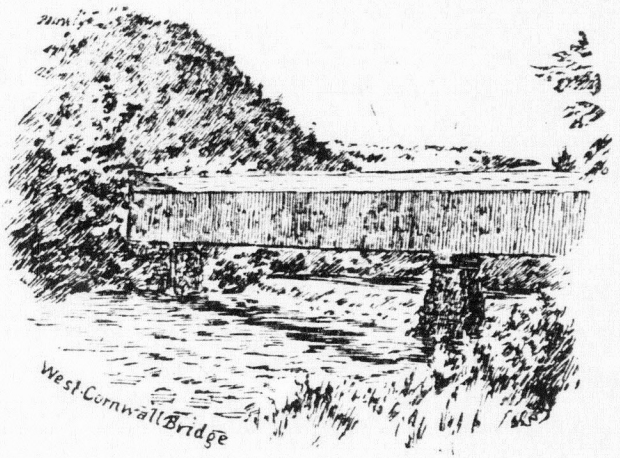
House at Great Barrington; but whether they succeeded in getting through, I know not, although we heard of them once afterward at New Milford. We got under way at ten o'clock. Just above the bridge is a low apron dam. We landed toward the east end, and, in a few minutes, had lowered the boat over the dam and were bumping through



the rapids below. We were obliged to stand up and push with the oars, when opposite the shears factory, and then were hurried, by the swift water, between two mountains that sprang from the water's edge on either side, toward a shallow rapid, which, however, we ran without difficulty. The scenery was quite wild and picturesque, the road along the west shore alone giving a hint that the place was in reach of civilization.

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We soon came to other shallow places, however, where we had hard work to get through. One great cause of difficulty was occasioned by fish-ways, which were made up of stones heaped in a long line, usually in a diagonal direction from shore to shore. If we went through the upper end we were quite sure to be stuck on shallows: if, on the other hand, we followed the deeper water along the upper side of the way to the lower end, there was no opening and we had to lift the boat over the stones. Sometimes, however, we found an opening in the wall where we could shove through. The river was often filled with huge rocks, and in a few places the channel was very narrow and the water poured through in a rapid fall. At the worst places we turned the boat around and went through stern foremost. Going through in this way we were enabled, even where the water was very swift and violent, to pull back and keep the boat steady until we had selected the best course. Much of the time one or the other of us walked along the shore. We had indeed altogether rather a tedious forenoon journey, and were three hours in getting to Cornwall Bridge, a distance of five miles. There is quite a high fish-way obstruction just above the bridge at Cornwall Bridge, and we had considerable trouble in getting past. We often wished, indeed, that the river was a foot higher. The water, however, as if to make some compensation, was pure and transparent as crystal.

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Below the bridge was another long stretch of shallow water, where my fellow-voyager, alone in the boat, exercised his ingenuity to the utmost to get through. In the next rapid we had no difficulty, as the channel was comparatively narrow, and we rushed through in fine style. We pulled up on the east shore, where the back water curled around to the foot of the rapid and in a sheltered nook enjoyed a lunch after our long fast and hard labor, and were again under way at three o'clock. The going continued to improve, and we soon came to Boardman's Bridge. The road from the east end leads to Cornwall Bridge and the west to Sharon. Below we ran aground two or three times, but the river was less rapid and the country not quite so wild. After a while the river was divided into several channels by graceful islands, and the shadows of evening began to fall upon the

> "Many-color'd woods,
> Shade deep'ning over shade, the country round
> Imbrown; crowded umbrage, dusk, and dun,
> Of every hue, from wan declining green
> To sooty dark."

And then again the fires of charcoal pits illuminated mountain slopes near and remote, and it seemed as if we were sailing through some vast, mysterious region of witchcraft. We still pursued our way in smooth water, however, with some confidence. By and by, we passed the houses of Alder City, on the west bank, whose lights

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twinkled cheerfully under the black shadow of the Scatacook Mountains, and, upon inquiry by hallooing, learned that we were two miles from Kent, our intended stopping-place. Pursuing our way in the Egyptian darkness, we cautiously approached a huge misshapen object in our course, which proved to be a catamaran. We had before heard a noise like an unearthly groan, repeated at brief regular intervals, and could then hear the water pouring over the dam; so we kept along the east shore, and landed as close to the dam as we dared go. Stumbling along the road, attracted by a feeling of curious horror toward the dreadful moaning, we saw, in front, a furnace, belching flame and sparks from the chimney, and a wing of the building aglow with the lurid, bright glare of a casting. We found that the groaning was due to a water-wheel and wind suction pump that supplied the furnace with air. It was easy, indeed, for a moment, however, upon arrival, to imagine one's self in Hades. We left our baggage in charge of the foreman, and walked half a mile down the track to the Elmore House in Kent.

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CHAPTER IV.

KENT. — STRATFORD.

WE had little opportunity to see Kent, but it had all the dignity of an eminently respectable New-England village, in the quiet air of early morning, as we left it still asleep on our way to the boat. We carried the boat around the dam on a wheelbarrow, and, relying upon the statement of a workman, put the boat in the tail-race, and, having loaded the baggage, embarked ourselves. The race was narrow and the current swift, and the boat got athwart the stream under a low-lying, projecting tree and filled, and all the baggage was washed out and got wet. Furthermore, after getting righted, we found that the race at the end expanded into shallows, — which, however, had never been the case before, — that would have made a carry necessary in any event; so we were not at all obliged to our informant. We easily rescued everything, however, including a can of julienne soup. We were continually reserving the julienne for a choice occasion, but after losing it in both our overturns, we carried it the length of the river, and, sad to relate, brought it home unused. However, we finally got under way about ten o'clock, and soon pulled under the bridge at Kent, which will, I doubt not, be a better structure hereafter, as it was undergoing repairs.

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The river banks are somewhat more open below Kent. On the east side, indeed, was quite a stretch of intervale. The reaches were long and graceful, and it was very delightful rowing in the clear air of an autumn morning. The trees were flaming in gorgeous colors, the maples, most brilliant of all, fairly ablaze with crimson and gold. The shrubbery was usually very gay, and, most beautiful of all, the vines of various colors creeping around the trunks of trees. The soft haze of an Indian summer was on the hills, and the air was deliciously cool. We arrived above the upper pitch of Bull's Falls at twelve o'clock, and landed on the east shore where we luckily, at once, found a team to transport us around. Bull's Falls is not a very large place. There is a store, one white house, and two or three red ones. A survey of the Housatonic was made last year for the purpose of determining the availability of the river as a source from which to increase the water supply of the city of New York, and the report was, I believe, favorable, and contemplated the location of a great reservoir at Bull's Falls.

A friend of the writer, who, in company with another, had navigated the river in a small skiff, in the third week of July, 1879, and unfortunately suffered shipwreck at Lover's Leap below, said he ran the first pitch of Bull's Falls, though it was the worst place he passed through on the river, and added, in a list of directions which we found very useful, in a somewhat humorous tone: "The

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lower pitch is truly terrific, and is best seen from the bridge. The river pours down a ledge to a depth so great that everything below seems dwarfed in the awful abyss." The river pours through a very narrow channel of rocks at an angle of about forty-five degrees, and finds rest before again plunging onward in a pond behind a deserted dam just below the bridge. We rode a mile and a half, and then, at a place where the road approached the river, launched the boat within sight of Gaylord's Bridge. We paid for the transportation of ourselves and boat, seventy-five cents. We backed the boat through a bad stretch of rapids under the bridge, and thence made good progress on our way to New Milford. A white church with a square tower, on a little elevation on the west side of the bridge, continued in view quite a long time, a prominent picturesque object, like a church in a picture. While rowing along, we came upon a flock of ducks in a cove, which, perhaps luckily for them and perhaps fortunately for us, proved to be tame, as they came within range.

Hitherto, our course from Falls Village had been in a wild, rough, mountainous region. I doubt, indeed, whether we passed through a mile of country, in all, that could be considered intervale, and a cultivated field was about as rare as intervale. We had mountains, rocks, trees, and a river that every few hundred feet was a foaming rapid. There is, indeed, an almost endless series of unused water privileges on the Housatonic, easily capable,

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it would seem, of being improved. It was, therefore, a relief to find the encircling mountains give way, and a broad open tract of country gradually disclosing itself before us as we drew near New Milford. Rounding a bend, we saw the houses of the village scattered over the side of a hill, looking, at a distance, much like a toy village. We were quite puzzled, for a time, to discover the use of several barrels painted white and apparently located as beacons along the river; but, as we pulled ashore below the bridge, we found a small paddle-wheel steamer, not much larger than a row-boat, at anchor, and we inferred that they were planted to aid it in navigating the broad and placid shallows opposite the town.

New Milford is the centre of trade for a large district, and it is very active and thriving. All the villages above are small — mere settlements; and the nearest villages below, on the river, are Derby and Birmingham, which are twenty-eight miles distant. The predominance of English names in the valley of the Housatonic is very noticeable. We stopped at the New England House, a hotel where the white-haired landlord is exceedingly jolly, lunch is always on the table, and the fare is excellent.

We pushed off at seven o'clock next morning. The river was enveloped in a thick mist. We kept close to the east shore, and soon heard the water pouring over a low dam which is, perhaps, half a mile below the bridge. We passed the mouth of the canal that leads to the mill,

which we had been warned to avoid, and landed at the east end of the dam and carried the boat over a convenient rocky ledge, and then, holding her by the cord, let her float through the short rapids below. While thus engaged, we found a half dozen large eels that had been caught in a trap at the end of a fish-way. There are so many fish-ways on the river, however, that I should think the catch everywhere must ordinarily be small.

Pulling under the railroad bridge below, where the Housatonic Railroad crosses the river for the last time, we continued on in the middle of the stream. The reaches were wide and long, and the trees on either side loomed vaguely through the dissolving mist, like gigantic ghosts. We had been approaching a mountain range directly in our path, and after about an hour's pull, we saw before us the dreaded Lover's Leap where the river makes its way through a wild gorge. On the right bank, just above, is the mouth of the Danbury River, crossed by a brown bridge. There is a fall of twelve or fifteen feet in the Housatonic just above the gorge, and a bridge crosses the river, just below the fall, at the entrance of the chasm. Between the fall in the middle of the river and the east end of the bridge is a ledge of rocks, and between this ledge and the shore is the narrow channel of a fish-way. We had come to consider Lover's Leap as the critical point of our voyage, for the friend who had supplied us with directions had been compelled to abandon his trip at

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this point, and he said: "I cannot exaggerate the difficulties of Lover's Leap. The boat cannot be taken out of the stream, for the banks are enormously high and steep where they are not mere cliffs. Furthermore, there is

no road over the mountain, and you will see that it is too high to take a boat over. The fish-way runs between two flat ledges, from one of which rises the cliff; the other is out in the stream, and cannot be reached. The only way to reach the one next to shore is to climb the bank where

the bare rock begins. I tried to go along the base of the cliff, and narrowly escaped drowning. I then climbed down the bare cliff to the ledge, no easy or safe job." The river must have been very high at the time he attempted to get through. He said, indeed, that "the water foamed in the fish-way as if it would pull the ring and staple out of the boat." The friend who was with him undertook to lower the boat with the painter through the fish-way from above, so that he could reach her, standing on the ledge below. The rope unluckily proved too short, and the boat rushed by and was swamped on a huge boulder at the end of the way. He added: "Down the gorge all is plain; but at the lower end are ominous breakers, of which I know nothing, and they might drown you, after all, for all I can tell." We landed on the outer ledge and found the fish-way merely a trickling rill. We made a fire in a very convenient cavity on the outer ledge and had the standard repast of the camper-out, beefsteak, roasted potatoes, and coffee. While breakfasting, we glanced, from time to time, down through the gorge where we could see the "ominous breakers" at the end, and get a glimpse of the country beyond, too, like a haven of rest, open, peaceful, and smiling.

We lowered the boat over the rocks beside the fall without any trouble, and, embarking just below, passed under the bridge which crosses the river high in air, and entered the Ausable-like chasm. It is, indeed, a wild and

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lonesome place, full of rugged beauty. The river is, however, comparatively smooth, except that there are two rapids at the very end of the gorge. We might easily have run the first, but instead, lowered the boat through on the west side with the cord. The other rapid we avoided by guiding the boat through shallow channels on the east side. As you emerge from the chasm, cliffs tower abruptly from the water at each side. The rugged cliff on the west side is covered with a scanty growth of trees, while the other is a bare, rocky steep, crowned with a dead pine, which enhances its desolate appearance. The river below spreads out in quite a wide basin called the Cove. The view of the Leap given is from the lower end, looking north.

We had supposed that, below the gorge, we should have smooth, deep water and level country. We found, however, instead, that the river was rapid and stormy, and ran through a valley, between mountains, amid scenery quite as wild and grand as above New Milford. We occasionally came across a troublesome shallow place, and often the inevitable fish-way, where we invariably had an interchange of opinion as to the best course to take. The going was very good, however, for the most part. After rowing nearly three hours, we saw a board nailed to a tree at the edge of a thick woods on the west bank, and, drawing near, found that it was a memorial, marking the place where a young man had been found

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dead. Not far below, we pulled up on the west shore where a brook trickled into the river at the edge of a gravelly point, and had our mid-day lunch. Immediately below the point is a shallow fall, and then a bridge. Rowing on, we came, in a little less than an hour, to the bridge of the Shepaug Railroad, which crosses the stream at a lonely place. We passed through a long stretch of rapids above and below the bridge, and then pulling around a very pretty bend bordered along the west side with trees, we came to a low dam which we passed at the west end. Then followed swift currents and rapids. The river, by and by, made a sharp turn eastward, running on the lower side along a finely curving wooded slope. The river continued to follow the spur of the mountain until it seemed to flow almost north, and then debouched into a small, open valley, a place quite as beautiful as any we saw on the trip. The river, as if relieved after its continual fretting over rocks, murmurs pure and limpid over a gravelly bed in a charming little intervale, while two large, white, comfortable looking houses on the north shore attest an appreciation of the charms of the little valley. At the end of the reach below, just above an island, is a ford where we saw a horse drawing a wagon and splashing, with slow contentment, through the shallow water. At the extreme end of the same reach is the truss bridge of the New York and New England Railroad, which, perched on lofty stone piers,

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spans the river like an aerial spider's web. The river below flows rapidly around a perfectly curving wooded bank. A few minutes after six o'clock, we came to Bennett's Bridge, where an island divides the river and bridge. We pulled under the eastern section and, landing on the gravel shore below, found shelter at the boarding-house of H. M. Post.

We started next morning at seven o'clock, and found the river about as usual, only the reaches were longer and broader, and the distance from rapid to rapid a little farther, while mountains still bordered the narrow valley on every side. We also got stuck two or three times in shallow places. We reached Zoar's Bridge, where a very handsome chain suspension bridge spans the river, about ten o'clock. Then, after passing through several rapids where the full current ran delightfully swift in narrow channels, we came to the head of a long pond formed by the Derby-Birmingham dam which sets the water back between six and seven miles. Here we encountered a violent southwest wind, and were glad to keep under the lee of mountains wherever they afforded protection. The scenery about the pond is essentially the same as along the river, embracing principally mountains, woods, and water. There is, however, some cultivated land, and a few houses are scattered along the shores. The pond is comparatively narrow, gradually widening, however, as you approach the end; and, as we rounded the last bend,

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a magnificent broad expanse of water stretched before us to the dam. Beyond the gate-house on the west side rises the tall brick tower of the Derby mills, and a few scattering houses are visible on the high ground on both sides below. There is a lock at the gate-house, but the keeper was not at hand and we had no time to hunt him up, so we pulled to the east end of the dam and there made a portage. A wide, deep, unused canal leads off from the east end of the dam, over which we carried the boat on a narrow stone walk on the east side of the gate-house.

The dam is a very imposing structure of stone, twenty-two feet high, with the lower face nearly perpendicular. It is six hundred and thirty-seven feet long, in the form of a curve, which is fifty feet deep, with the concave side facing down stream. In a history of Derby I find a statement that the trembling sound of the water pouring over the dam, when the river is full, has been observed in the upper part of the city of New Haven, a distance, in a direct line, of over eight miles. There is a lock on the west bank, just above the Derby mills, between the canal and river. The bank below is lined with mills to the bridge, while on the east side below the bridge are the factories and houses of Birmingham, which is located on a tongue of land between the Housatonic and Naugatuck Rivers. The river forms quite a basin immediately below the bridge, and several schooners, at wharves, and a sharpy, darting here and there, warned us of our approach to the sea.

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We began our last pull on the river about two o'clock. We kept close to the west shore, under the shelter of mountainous wooded slopes, whenever it was possible, to avoid, as far as we could, the wind, which was fiercely blowing. The tide, luckily, was with us. Still our progress was slow. The river is several hundred feet wide, and the reaches very picturesque. The shore was rocky and wooded almost all the way to Stratford. We occasionally pulled by a little beach ensconced between rocks, and sometimes an open space wherein a house was prettily located. A fence projecting into the stream often compelled us to make a brief detour, and by and by we passed little fleets of moored dories, and huge reels in sheltered coves, and many a fine camping place, of which, however, there had been no lack all along the river. There were marshes here and there, and yet, although we were so near the sea, and the tide was running strong, the water was fresh. Late in the afternoon we saw a long way off down river, over a wide expanse of water beyond a marsh, the high crossed framework of a long bridge outlined against the sky, and the spires of Stratford. The banks were dark and sombre, the water in the channel a raging mass of white caps, while heavy clouds rent and torn by the furious wind were scudding along above, lighted with the gorgeous and continually changing hues of a brilliant sunset, the entire scene resembling very much a sullen and angry Turner.

We pulled under the truss bridge of the New York and New Haven Railroad about six o'clock. We continued on, however, to the Washington toll-bridge just below, on the old post route from Boston to New York, which, it is said, derives its name from the fact that Washington marched over it when on his way to New York after the British evacuated Boston. There is a hotel at the east end of the bridge. The river below the toll-bridge flows past the Lower Dock at Stratford, as it is called, and then a mile further in a magnificent wide, semi-circular sweep between level marshes to the sea. The mouth of the river is guarded on the eastern side by Milford Point, where there is a hotel, and on the west by a light-house. The town of Milford is on the east bank, but the village is three miles from the bridge. Stratford is on the west side, about a mile from the river. It is a large old-fashioned village with wide, rambling, well-shaded streets. Many of the houses are covered with long, wide shingles, and the windows are filled with the small panes of glass anciently in vogue. There is no factory in the village and no hotel. It is, therefore, as one would naturally suppose, a very quiet place, and it has a quaint and extremely conservative air, which the modern houses cannot dispel. Bridgeport is three miles west of Stratford, and New Haven thirteen miles east.

We were seven days in all in descending the river, which may be considered the utmost limit of time

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necessary, as the water was almost unprecedentedly low and the days short. The invigorating autumn air, however, enabled us to sustain the burden of rowing, which some one has characterized as the easiest kind of hard work, — as it surely is for one accustomed to it, though a most grievous task to a novice, — with an effective stroke from morning until night. The friend who supplied us with directions, upon hearing an account of our trip wrote: "I did not suppose we had such very high water, and it could not have been very high in July either. I am sure that letting down over the great falls at Falls Village would have been about as practicable for us as letting down by Niagara. We were less than three quarters of an hour in going from West Cornwall to Cornwall Bridge, where you seem to have had so much trouble. We rushed right along, bow on, as I never rushed on any stream before. At Lover's Leap the fishway was a roaring torrent, and the waves at the end were tremendous curlers. With the same stage of water I do not believe that it would be safe to undertake to go through."

I should advise any one in boating on the Housatonic not to be in a hurry, if possible to avoid it. It is a beautiful stream from beginning to end. Whoever descends it, indeed, in whatever way, will undoubtedly retain in memory unfading visions of scenes of rare beauty, which he will nevertheless unhappily find as impossible to

describe as the charms of a perfect poem or a perfect picture.

A single word of caution: Be sure you know how to handle oars in wild water before embarking on the mad Housatonic.

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THE NASHUA RIVER.

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HISTORY

OF

THE COUNTY OF BERKSHIRE,

MASSACHUSETTS;

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1829

IN TWO PARTS.

THE FIRST BEING A

GENERAL VIEW OF THE COUNTY;

THE SECOND, AN

ACCOUNT OF THE SEVERAL TOWNS.

BY GENTLEMEN IN THE COUNTY,

CLERGYMEN AND LAYMEN.

David Dudley Field

PITTSFIELD:
PRINTED BY SAMUEL W. BUSH.
1829.

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PREFACE.

THE HISTORY OF BERKSHIRE owes its existence to the following votes of the Berkshire Association of Congregational Ministers, passed at their session in Stockbridge, June 13th, 1826:

"1st. That we will adopt measures to secure the writing, and as soon as circumstances shall permit, the printing and circulation, of a History of the County; which shall embrace an account of every thing important in it, whether natural or artificial, civil, literary, or religious:—more particularly, which shall embrace an account of the settlement of the several Towns; the formation of Parishes and Churches; the settlement, dismission and death of Ministers; revivals of religion, and sketches of the lives of eminent men.

2d. That Rev. Mr. Field be requested to collect and prepare the materials for said History."

At the time these votes were passed, it was designed to apply to Prof. DEWEY to write the Natural History of the County. He has done more. The part to which his name is prefixed, is written by him, with the exception of the paragraphs which respect the early settlement of the County, the Aboriginal inhabitants, the Revolutionary War, Shays' Insurrection, the Courts, revivals of religion, and most of the Tables. These have been supplied by the Committee, according to an early understanding between the Professor and him.

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The Clergymen belonging to the Association were expected to write the history of their own Towns, and in some instances, of adjoining Towns, where no Ministers were settled; or at least to supply the Committee with facts, from which he might compile a history. They have written what is ascribed to them, except that in some cases facts are inserted which they had omitted. In a few instances, facts are erased which had been more appropriately introduced in other parts of the work; and in others, statements, found to be erroneus, are corrected. The same liberty has been taken with the manuscripts furnished by Laymen. In general, however, the histories of the towns appear, both as to "matter and form," as they were written by the authors.

For the facts concerning Cheshire, the Committee is indebted principally to the Rev. HENRY B. HOOKER, and JONATHAN RICHARDSON, Esq; for those concerning Savoy, to Elder BENJAMIN F. REMINGTON, and SNELLEM BABBITT, Esq.; and for those concerning Florida, to JESSE J. KING, Esq. and Deacon ROBERT FIFE. Several persons have furnished him with facts concerning New Ashford. ISRAEL JONES, Esq., of Adams, has been particularly kind in collecting and communicating facts concerning several towns in the north part of the County.

To all these gentlemen, and to all others, who have assisted him in any way in preparing this work for the press, the Committee takes this opportunity to return his warmest thanks.

In arranging the Towns, the *general* order of their settlement has been followed. Where one town originally included several, the original town, and the towns formed out of it, are of course given in connection.

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RIVERS, PONDS, &c.—The two principal rivers are the Housatonic and Hoosic. The former is much the larger and longer.

The *Housatonic* river is formed by two principal branches, which unite in Pittsfield, about one mile south-east of the meeting-house. The *eastern* branch rises in Windsor, and pursues a south-westerly course through Dalton, where it receives a considerable stream from Hinsdale, to Pittsfield, forming numerous sites for the application of *water power*. On this branch are the large manufactories of paper in Dalton. A cotton factory is on this branch at the east part of the village of Pittsfield.

The *western* branch is commonly said to originate in the pond or lake lying in Pittsfield and Lanesborough, but chiefly in the latter town. This pond is of an elliptic form, considerably more than a mile in length, and about a mile in width, having a small island near the middle of it. It is a beautiful sheet of water, and is viewed to great advantage from the hill on the east of it, over which the county road passes from Pittsfield to Lanesborough. This pond is commonly called the North or Lanesborough Pond. It has a small marsh on its northern border, which is supposed to render the atmosphere unhealthy in its vicinity; as the inhabitants in this part of Lanesborough are more liable to suffer from fevers in the autumn, than those situated about other parts of it.

The principal stream which enters this pond, rises in the south-west part of New Ashford, on high ground, where its waters are easily turned to the north to unite with the Hoosic, or naturally to the south, and constituting the head waters of the western branch of the Housatonic. This stream runs south-easterly and south through Lanesborough, forming some small mill sites in the north part of the town, but running with a slow stream through most of the valley in Lanesborough to the pond before mentioned. It is probable that this pond was more elevated formerly, and covered a portion of the low ground on its north side, which is now excellent *meadow* land. A tributary to this stream rises in the south-east part of New Ashford and north-west part of Cheshire, and unites with it two or three miles before

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the western branch comes to the pond. From the Lanesborough Pond, the western branch pursues a southerly course, below and west of the village of Pittsfield, affording in the first two miles below the pond, numerous and very excellent sites for mills, many of which are occupied by grist-mills, saw-mills, fulling mills, Pontoosuc Woollen Factory, gun factory, triphammer shops, machine factory, &c. Still farther south, and before this stream has turned much to the east to unite with the eastern branch of the Housatonic, important *water privileges* are already occupied.

Another pond or lake in the western part of Pittsfield, called West Pond, is said to be larger than the Lanesborough or North Pond, and discharges its waters into the west branch of the Housatonic, west of the village in Pittsfield.

Several other smaller ponds, south and east of the centre of Pittsfield, discharge their waters into the Housatonic. Owing to the greater breadth of the valley in Pittsfield, and the number of ponds, the air is more humid than in most parts of the County, and the quantity of dew appears to be considerably greater.

The course of the Housatonic, from the junction of the two branches in Pittsfield, is somewhat southerly along the east part of Lenox to the village in Lee, offering numerous *water privileges* also, occupied by mills, the furnace in the south-east part of Lenox, paper factories near the centre of Lee, machinery for cutting and turning timber for chairs, &c. The important mill sites in this part of Lee, are near and a little north of the village. A little south and west of the village in Lee, the Housatonic turns to the west, along the north base of Beartown Mountain. In the south-west part of Lee, its important mill sites are occupied by a forge, extensive factories for paper, &c. The river continues its course westerly into Stockbridge, thence north-westerly round the north part of Monument Mountain; thence south-westerly in the west part of Stockbridge, along the east base of Stockbridge Mountain, and thence southerly along the west base of Monument Mountain, over considerable rapids and falls into Great Barrington. In the west and south-west part of Stockbridge, and the upper part of Great Barrington, are some very impor-

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tant mill sites, several of which are unoccupied. From Monument Mountain, in a slow, winding course it comes to the middle of this town, through a beautiful intervale, where it forms an important mill site at Barrington Bridge. Thence its course is southerly, winding, and generally slow, to and through Sheffield, turning in the south part of this town towards the west, and thence again south to the line of the State of Connecticut. At the *line*, the elevation above *tide water*, at Derby, Con. is six hundred and twelve feet, and the river is here ten or twelve rods in width, with a depth of perhaps four feet. At Great Barrington, it is about six or seven rods in width, and its depth less than three feet. At Stockbridge, the width is little less, but with less depth of water. At the junction of the two branches in Pittsfield, the river is about three rods wide, and perhaps has an average depth of two feet.

Near the village in Lee, the Housatonic receives an important branch from the east, which rises in *Green Water Pond* in Becket, and towards the south-west of Lee, Hop Brook, which flows through Tyringham, joins it from the south-east.

In the south and east part of Lenox, and north-west of Lee, are some small natural ponds, whose waters run into the Housatonic on the west.

In Stockbridge, *Konkapot's Brook*, which rises in the south-west part of Tyringham and north-east of Great Barrington, runs north-westerly and receives *Negro Brook*, issuing from a small pond and marsh on the north-east base of Monument Mountain, and the whole unites with the Housatonic from the south, near the village of Stockbridge. A little farther west and north, a considerable stream from the north, and issuing from *Great Pond* in Stockbridge, joins the Housatonic. This pond is about a mile and an half in length, and in the widest part a mile in breadth; is bounded by a part of the Stockbridge Mountain on the west and north-west, whose summits and foliage and hollows are often reflected from its silver surface most delightfully to the eye. The road passing along the east side of Great Pond to Lenox, affords splendid scenery. Near the outlet of Great Pond are valuable *water privileges*.

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A

HISTORY

OF

THE COUNTY OF BERKSHIRE.

PART I.

CONTAINING A

GENERAL VIEW OF THE COUNTRY.

BY REV. CHESTER DEWEY,

Late Professor of Chemistry and Natural Philosophy in Williams College, and now Principal in the Berkshire Gymnasium.

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Only moderately good water privileges are found on these streams in Sheffield.

At the south part of Sheffield, *Konkapot* river runs from the east into the Housatonic. This stream rises in Tyringham and New Marlborough, the west branch in Six Mile Pond, (near the rise of the stream of the same name which runs northerly into Stockbridge) flows south through New Marlborough, affording valuable mill sites; passes through *Konkapot*, so called from an Indian village, in the south-east part of Sheffield, into Canaan, Ct.; then turning westerly and north-westerly round Alum Hill, runs into Sheffield to find its passage to the Housatonic. This stream has a valuable mill site also in Sheffield, at the place formerly so well known as *Ashley's Iron Works*.

There are some other smaller tributaries to the Housatonic in this part of the County.

Soon after the Housatonic enters into the State of Connecticut, it passes over the *falls* between Canaan and Salisbury, usually called *Canaan Falls*. The river first falls over a rock of about *twenty* feet perpendicular; and a little below, over the principal fall, about *seventy* feet, formed by a ledge of limestone, obliquely crossing the stream, increased a little by a dam erected on its top, and producing a very beautiful and grand appearance. After a rapid current for a short distance, where its waters are whirling and foaming by dashing against the rocky bottom, it falls about ten feet. Its current is then rapid for some distance below. At Derby, the Housatonic meets the *tide water* from Long Island Sound, having received several important streams in its passage through the State of Connecticut.

In all its course through Berkshire County, the Housatonic, though not large and deep enough for boat navigation, is an exceedingly important stream, and contributes beyond calculation to the advantage and prosperity of the inhabitants. Many of its sites for the application of *water power*, have been mentioned; of which a more full account may be given under the account of manufactories in the various towns.

A survey of the elevation of the Housatonic was made a few years since by Judge Wright, to test the practicability of constructing a profitable Canal from Derby, in

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Connecticut, to the middle of Berkshire County. According to this survey, the ascent from tide water at Derby to the top of Canaan falls, is - - - - 606 ft.

From Canaan Falls to the bridge in Great Barrington, - - - - - - - - - - - 39
Thence to the Woollen Factory in Stockbridge, 120
Thence to the dam of Lee Forge, - - - - - 25
Thence to the dam of Lenox Furnace, - - - 96
Thence to the foot of Wheeler's dam in Pittsfield, 21

207 ft.

This rapid ascent will probably prevent the construction of a Canal along the Housatonic, until the population and trade shall have very greatly increased.

Along the Housatonic in Berkshire County to Pittsfield, there is an interval of alluvial (*made*) land, very rich, easily cultivated, yielding abundance of grass. It is wider in the south part of the County, and occasionally disappears from the near approach of the hills; but often extends from one fourth of a mile to a mile in width. A considerable portion of it is annually overflowed by the melting of the snows in March, presenting a flood of waters in some places a mile in width in Sheffield, and varying from a foot to ten feet in depth, according to the inequalities of the surface. This flood is of great consequence in enriching annually the soil of this *interval*. On great falls of rain in summer, much damage is sometimes done to the grass and crops in this interval, by the rise of the river. Through the southern part of the County, the river appears at different times to have had its bed over nearly the width of the interval. The deep hollows and *coves* in the meadows, in some of which water continues many feet in depth through the year, prove clearly where its bed once lay. It is continually changing its course now, slowly but constantly wearing away from one bank, and forming *alluvion* on the other; and in this progress often uncovering trees from one to two or three feet in diameter, in a state of complete preservation, often at a depth of six, eight and ten feet below the surface. These trees must have been buried for ages.

At the commencement of the rise of the waters in the spring, thousands of logs of *pine* and *hemlock*, have

Exhibit 22

been thrown into this river, and floated down its current from Great Barrington and Sheffield for years, over the falls at Canaan, to New Milford and Derby, where they have been converted into boards, plank, shingles, &c. for market in Connecticut and New York. The rise of the water has commonly carried them safely over the rocks in the stream. Their passage over the Falls has often been witnessed with amazement. This trade has carried a very great portion of the *pine timber* from the south part of the County.

Hoosic River has a northerly and north-westerly course. The *south*, and principal, branch rises in the south-east part of Lanesborough, 991 feet above the Hudson at Albany, runs north-easterly through Cheshire, and thence northerly through the south village of Adams to the north village in this town. Here it turns to the west, to pass round the north end of Saddle Mountain and near the south base of Oak Hill into Williamstown. Directly north of Saddle Mountain, and on the *north side* of the Hoosic, stood, at a little distance from the stream, Hoosic Fort. Through Williamstown, the course of the river is north-westerly to the foot of Northwest Hill, nearly two miles north-west from the College, where it turns towards the north, and passes into Pownal, Vt. Its course then becomes north-easterly through Hoosic, N. Y. to Hoosic Falls, from which it holds a westerly course to Schaghticoke Point, where it unites with the Hudson, about ten miles north of the city of Troy.

At the south village of Adams are important *water privileges* on the Hoosic, occupied by cotton factories and mills. Here it receives a small tributary from the east, which rises in the mountains towards Savoy. Here the Hoosic is little more than a rod in width, with an average depth of perhaps one foot. Its course is slow through the narrow valley of Adams to the north village, where is a very valuable mill site. Here is a grist-mill, saw-mill, oil-mill, machine factory and cotton factory. A few rods below this site, it is joined by a stream, called the North Branch of the Hoosic, which rises in Vermont, and passing southerly through Clarksburg along the base of Hoosic Mountain, turns to the west near this village in Adams to unite with the other branch,

Exhibit 20

THE CONNECTICUT STORY

by

JOSEPH B. HOYT

Elliott H. Kone, *Editor*

(1961)

RP-2

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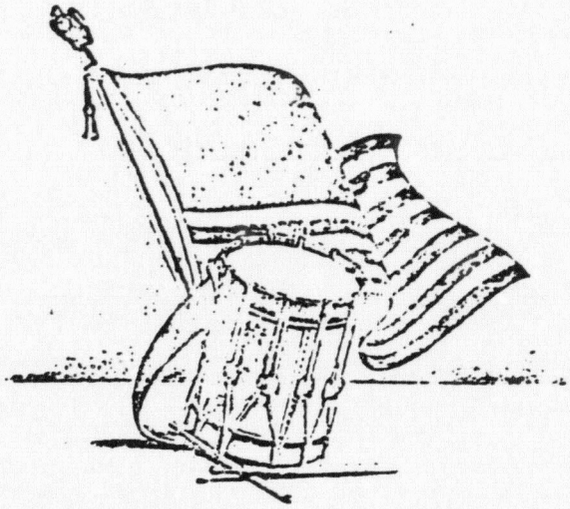
ABOUT THE AUTHOR

Joseph Bixby Hoyt was born in Salem, Massachusetts where he got his early schooling. At Bowdoin College and in his early graduate study at Harvard University his training was in history and education. After receiving his M.A. from Harvard in 1937 he taught for five years in the Massachusetts public schools. During World War II he worked for Pan American World Airways and returned to education after the war as Director of Guidance at Southbridge, Mass. for two years. He then went back to college to earn a Ph.D. in Geography from Clark University.

Since 1949 Dr. Hoyt has been on the faculty of Southern Connecticut State College where he is now Professor of Geography and Chairman of the Social Sciences Department. His writings are in the area of historical geography: *The Cold Summer of 1816* and the *Historical Geography of Berkshire County, Mass.* He is the author of a college text on geography entitled, *Man and The Earth.*



PREFACE

The Connecticut Story has a cast of characters and a locale as all stories do. The cast, however, numbers in the millions and the locale stretches from Greenwich to Stonington along the coast and north to the Massachusetts border. It covers 5,004 square miles. Some writers on Connecticut concentrate upon the people — they write character studies. The present book considers that both cast and locale are equally important. They influence and have influenced each other.

Millions of people during the past three and a quarter centuries have spent their lives in the state changing its landscape. They have cut down its forests and sown fields, built roads, canals and railroads, constructed dams on its rivers and buildings along the river banks and on numerous sites scattered over the hillsides. As a result of their efforts the Connecticut that exists today is largely man made. All of it has been modified from its pre-historic condition.

While Connecticut's residents have been changing the scenery to suit their own purposes, these physical resources have exerted a persistent pressure upon the people, influencing men's lives. The landforms, especially the distribution of land and water resources, have affected the way people have distributed themselves around the state. The varying population densities

from sparsely populated hill regions to dense urban clusters reflect, in one way, man's reactions to differences in Connecticut's land resources. Cities do not grow haphazardly. Behind each city's growth lies an explanation that combines historical and geographic factors. This city developed around a good harbor, that one on a waterpower resource, and a third may have grown because of its proximity to other cities. But the growth or lack of growth of individual communities is only one aspect of the way Connecticut's environment has influenced her development.

It is impossible to completely understand Connecticut's history without knowing her physical geography. This is the theme of *The Connecticut Story*. It discusses the intricate interrelationships that develop between men and their environment, specifically the relationships that have evolved over 325 years between millions of men and women from varying cultural backgrounds and the land that is Connecticut.

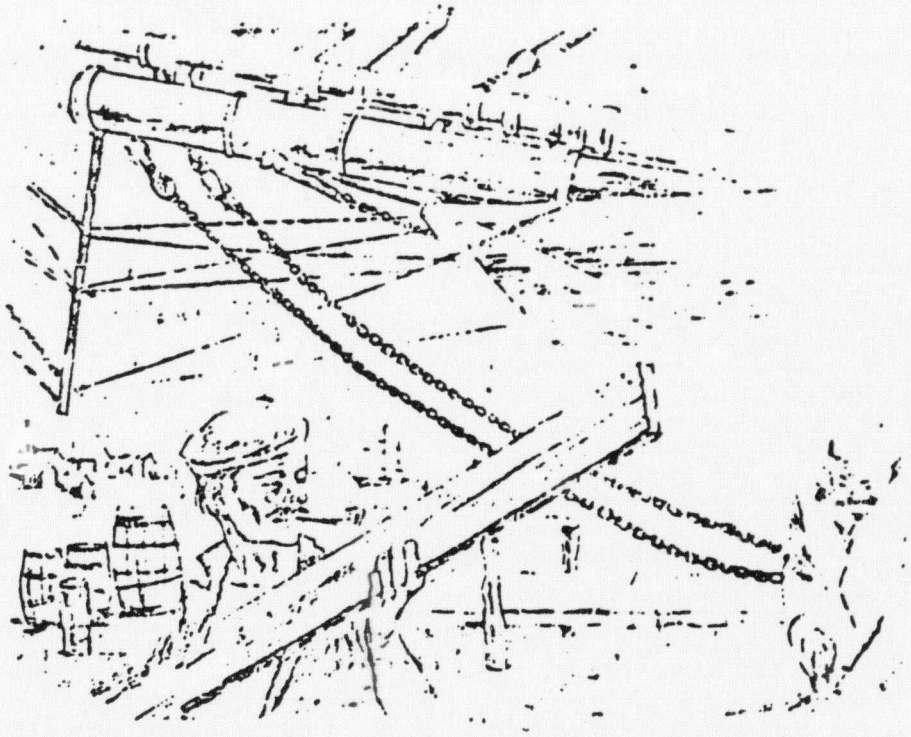
The landforms, climate, soils, water, vegetation and animal resources, as well as the mineral wealth of Connecticut are described. This forms the geographic background. In addition the major events of Connecticut's political, economic, and cultural history are included. Together the two form a unit and explain the changing cultural landscape of the state.

The book has deliberately been written in simple language and contains only those technical terms which are essential in understanding the changes that have come. It may be used in upper elementary and Junior High grades. Adults will find it entertaining although there is no attempt to challenge their greater maturity and deeper knowledge.

J. B. H.

Most of the trees in the forest have broad leaves. They are deciduous trees which means they drop their leaves in the winter. The most common are birch, beech, maple, and oak, but there are many others. Hardwood trees like these are very useful in making things that require strong wood. Furniture, tool handles, wagons, and ships all require hardwood. An even more valuable lumber tree is the white pine. This has a soft wood that is easier to cut and shape. Many of the boards we use are pine. The white pine has another advantage in that it grows very tall and very straight in a single trunk. (Most deciduous trees have large branches.) The white pine makes the best masts for ships.

Because most transportation was by water in these early days, the men of Connecticut started to build ships soon after they settled here. This meant a big demand for masts. They were needed by local shipbuilders and they could also be sent to



Two ship's carpenters are busy at work building a ship that will carry Connecticut's farm produce to England or to the West Indies.

England where the white pine does not grow. Masting, as the work of cutting down and bringing these big tree trunks to the coast was called, was a very profitable business. It was also very risky. Cutting down a 150 foot tree without breaking it was difficult. After the tree was on the ground it had to be dragged to the river and then brought down the river in the spring flood. Many masts were caught in the falls in the rivers and broken to bits. But, if one was successful, the mast was worth a lot of money. Many men tried it and a few succeeded. Lumbering made a good winter job for farmers. The work began after the snow fell and ended with the spring log drive. Probably most of the lumbering in Connecticut was done by part time workers, men who were farmers in the spring, summer and fall, and lumbermen only in the winter.

Mineral Resources

Besides lumber and farmland there were other resources that the Connecticut settlers looked for. These were metals. Ever since the Spanish found gold and silver in their colonies of Mexico and Peru, every settler dreamed of finding a gold mine on his land. Some of them spent much of their spare time poking around in the woods looking at the rocks and searching for metals. They hoped to find gold or silver, but they knew that almost any metal would be valuable.

Metals are usually found in tiny quantities scattered through rocks. This combination of metals and rocks is called an *ore.* After it is discovered and dug out of the ground, the metal has to be separated from the ore before it can be used. There are a number of ways of doing this. Later on this book will describe the way iron is separated from rock. There has to be enough metal in the ore to be worth the trouble of getting it out. It takes time and money to separate the two. If there is too little metal, it simply is not worth the effort. This is the problem in Connecticut. There are small amounts of a great many metals. But in only a few areas is there enough of any one metal to be worth mining. Some of these places were discovered and mines were opened up

Exhibit 24

NEWTOWN'S HISTORY

AND

HISTORIAN

EZRA LEVAN JOHNSON

With Additional Material

PREPARED BY

JANE ELIZA JOHNSON

The Historian's Life Companion

NEWTOWN, CONNECTICUT, 1917

FOREWORD

It was the fond desire and studied purpose of the late Ezra Levan Johnson, to publish and preserve the early history of his native town and in this labor of unrequited love he gave unstintedly of time, travel and research.

The Newtown Bee furnished him opportunity to reach the public and this memorial volume to Mr. Johnson's memory aimed to gather and perpetuate some of his published articles. It by no means includes the wealth of material at his disposal for additional articles, which would have been published had his life, strength and faculties been prolonged. It is but the plain truth that no man was so well equipped for the task which Mr. Johnson set for himself with such unflagging zeal, both in his own knowledge of Newtown's past and in his painstaking search into local records, as well as those of the Colony, State and Nation.

Connecticut Colony, formed by the union of Hartford and New Haven in 1665, appointed a committee at the May session at Hartford in 1711, to lay out such divisions of land within the said Newtown as shall be agreed upon by the proprietors thereof. At the October Session at New Haven in October of 1711, this committee reported to the General Assembly that, "having lately had a general meeting of the said proprietors and their agreement or order for laying out a certain division, or sundry lots of lands within the said town of Newtown, the said committe have thereupon proceeded and laid out the same." William Junos, Justice Bush and Samuel Hawley had bought this Newtown land, a tract six by eight miles of the Indians, July 25, 1705. Junos sold half of a third interest in this land to John Glover, making him a large landholder in the early settlement, which he served as town clerk.

Glover's purchase from Junos took place Dec. 6, 1708 and the deed of sale was copied by Glover from the records of Stratford, to which town Newtown then belonged. Dec. 19, 1710, two years after Glover's purchase, Samuel Hawley, who had a third interest in this six-by-eight-mile Newtown tract, united with his father, Joseph Curtis, Rev. Charles Chauncey (the Stratford minister) and 38 others, with "Richard Bryan's heires," to buy Junos' remaining sixth interest and Bush's third for £22,10s, "currant silver money of the Colony of Connecticut." This deed was copied into Newtown records from those of Stratford by Joseph Curtis, one of those buying out Junos and Bush.

There were 48 rights in this land so bought, Richard Hubbell Sr. having three rights, John Glover, John Reed, Benjamin Fayer-

weather two each and the rest one apiece. This land was not all parcelled out at once, nor all held at the same value. The swamps, open glades made by annual Mohawk fires that swept all this country in the Housatonic valley, in which meadows the early settlers cut coarse native grass for winter fodder, were most valued and were cut into four-acre strips. In 1717 the Great Bogs, as swamp land near the Horatio Northrop place was called, and the Little Bogs a half mile below on the stream running out of Great Bogs were parceled out. The hills were mainly timbered and were cut into large pieces; 20, 30 and 40-acre divisions are frequently spoken of. An allotment of 30 acres to each of 48 rights was voted in 1721; in 1717, the record speaks of a 100-acre division and the common or undivided land continued to be parceled out until the Revolution. Land was rated then, as lists show, as pasture land, or plow-land or meadow land, and different kinds of lands were returned distinct and separately. The custom was to divide the land into the given number of acres and then draw lots for each man's "pitch" as they called it. A committee was appointed to see that each one got his rights, but some were so slow in drawing lots that the proprietors passed votes to spur the delinquents up to the mark.

This volume further illuminates the history of this Newtown land, so honestly gotten from the red man, as well as of the men who bought and settled here, mostly from Stratford.

The preparation of this volume has been a labor of love, as was the material from which it was prepared, and thanks are due all who have encouraged and aided the enterprise whether by suggestion, advice or purchase of this tribute to the effort of an unselfish, high-minded, patriotic American.

Additional material seeks to make it a more complete Newtown history, to which have been added names of descendants of Newtown's early settlers, an account of Mr. Johnson's death and burial, with some of the many tributes paid his memory.

Reuben Hazen Smith.

MR. JOHNSON'S OWN FOREWORD.

How time does fly! Here we are well agone in March and the third month of the new year will soon be gone. Before we realize it, turtles will be peeping, frogs will be croaking, woodchucks will be waking from their long winter nap and crawling from their holes will, with blinking eyes, be on the lookout for some sneaking, hungry dog. Soon bluebirds and robins will be looking for nesting places and the phoebe bird will build its nest of moss and mud and hair, perhaps over your front door and mine, where it was built last year and when she has lined it carefully with feathers, deposited her eggs, will sit the allotted time for the young life to appear, all unconcerned of danger, for she will remember the warm welcome that was hers from us all through her brooding season of one year ago. With the coming of the birds will also come the earliest of our wild flowers, the arbutus, the anemone, the trillium, the hepatica, the wind flower, the adder tongue, dutchman's breeches,

stands on the banks of the stream flowing through the village; also a grist mill several hundred feet below, which is still used for the purpose for which it was originally built.

When Elijah Sanford died, the mill property passed into the hands of his son, David Sanford, and from him to his son, William, grandson of Elijah. A long stretch of years it stood in the Sanford name and is owned now by Patrick Campbell. Oft repaired and somewhat dull from age, it serves the public, though not exactly as of old, when all the work was custom work, as the farmers raised the grain they used and the miller got his living from the toll he took for grinding, and laid by some cash for a rainy day. Now most of the grain for grinding, coming from the West, the farmer goes to mill with an empty wagon and money in his pocket, to return with his wagon full but pockets empty and, perchance, an increase of the debit side of the account.

The motive power of the old mill has not yet been superseded by steam or electricity, as the power still comes from the sparkling waters of the Pootatuck, the same old stream, with the same old Indian name, which, though differently spelled than of old, is a name musical in our ears, whose waters, ever beautiful to look upon as they ripple along in sunshine or in shade, until lost in the quiet restfulness of the pond below, are again let loose to move the great machinery of the rubber works and from thence pursue checkered, fascinating wanderings through wooded glen and quiet meadows, to find outlet in the waters of our beautiful river, the Housatonic.

THE FIRST SAWMILL

Almost as imperative as the necessity for a Grist Mill, was the necessity for a Sawmill.

March 17, 1712, the town voted, that Mr. Benjamin Sherman and Capt. John Holley and John Sely shall have Liberty to get a Saw mill on ye deep Brook South of ye Town Reserved and ordered four Rods on ye west Side of ye Sawmill for A gangway and ordered that iff any man draws any Log or Logs into sd Gangway ys sd Log or Logs to be forfitt to ye Town, Except sd Logs are drawn or put into sd Gangway to be sawed forthwith before any other Logs at sd mill.

Dec. 24 1713. Voted and agreed upon yt ye proprietors of ye town do freely give and grant liberty to Ebenezer Smith, James Hard, Jerimiah Turner, John Seely and Joseph Gray of Newtown, to build and erect a sawmill on ye Half Way River, so called, North west of Darby road down near Stratford, or on Pohtatook River, and as much land as shall be needful for ye use of sd saw mill so long as sd persons shall erect a mill there, provided they will saw for ye town to ye halves all such timber and logs as ye inhabitants shall bring to this mill and for two shillings six pence per hundred in pay for Whitewood and Chesnut, it is also granted yt they shall have liberty of a convenient passage to ye Great River yt ye owners of sd mill and ye inhabitants of ye town may have ye advantage of ye transportation of their timber, plank, boards and slit work where they shall see cause to make sail of ye timber—and sd partners are to build ye sawmill in two years time or else expect to lose ye sd stream. Also voted Joseph Gray and Jeremiah Turner are chosen a Committee to lay out concerning ye land for sd Mill and a Highway to ye Great River called Stratford River.

Voted and agreed and ordered four rods on ye west side of ye sawmill for a gangway and ordered yt if any man draws any log or logs into sd

Exhibit 25

THE

PUBLIC RECORDS

OF THE

STATE OF CONNECTICUT

From May 1793 through October 1796

COMPILED IN ACCORDANCE WITH AN ACT OF THE GENERAL ASSEMBLY

BY

LEONARD WOODS LABAREE

STATE HISTORIAN

AND

CATHERINE FENNELLY

HARTFORD

CONNECTICUT STATE LIBRARY

PUBLISHED BY THE STATE

1951

INTRODUCTION

This volume contains the record of transactions of the Connecticut General Assembly during the four years 1793-1796, corresponding in point of time very closely with the second administration of George Washington as President of the United States. The records of the Governor and Council for the same period are included as an appendix.

The Introduction to Volume VII discussed at some length the failure of the State to ratify the first ten amendments to the Federal Constitution. Quite different was the reception the Assembly accorded in 1794 to the proposal which became the Eleventh Amendment. The decision of the United States Supreme Court in February 1793 in the case of *Chisholm v. Georgia* interpreted Article III, section 2 of the Constitution as permitting a citizen of one State to sue another State in the Federal courts even against the will of the defendant State. Connecticut objected, along with several of her sister commonwealths, and in the October session instructed her Senators and Representatives to work for an amendment which would prohibit in the future such an infringement upon the sovereignty of a State (pp. 94-95). In the following March Congress submitted a proposed amendment denying to the Federal courts jurisdiction over suits against a State brought by citizens of another State or an alien. Connecticut was prompt to ratify at the May 1794 session, a few weeks after receiving the text of the amendment (p. 141). Other proposed amendments did not fare so well. A cryptic entry in the Assembly Journal, October 30, 1794, reads, "Dissented to bill for ratifying an amendment to Constitution of United States," but neither in the Journal nor the manuscript Archives has any evidence been found to indicate the nature of the proposal. Except for the Eleventh Amendment mentioned above, Congress submitted no proposals to the States between the group of twelve sent out in 1789, ten of which were ratified by the requisite number of States, and the Twelfth Amendment submitted in 1803.[1] It is conceivable that the amendment now rejected was one of the two included in the initial group of twelve submitted in 1789 but never adopted and that Connecticut was now giving it somewhat belated attention.[2] In 1796 the Virginia legislature communicated to the sister States proposals for a group of amendments relating to the ratification of treaties, the trial of impeachments, the term of Senators, and the ineligibility of federal judges to hold any other federal office simultaneously. The proposals followed Chief Justice Jay's mission to England and the highly unpopular treaty he negotiated there.[3] Connecticut's political

1. Herman V. Ames, *The Proposed Amendments to the Constitution of the United States During the First Century of Its History*, *Annual Report of the American Historical Association*, 1896, II (Washington, 1897), 323-324.

2. The two proposed amendments submitted in 1789 which failed of adoption related respectively to the apportionment of the House of Representatives and to the compensation of members of Congress.

3. H. V. Ames, *The Proposed Amendments to the Constitution of the United States*, pp. 66, 67, 147, 268, 323.

Loomiss about twelve Years ago did erect a Dam and Saw Mill across said River to the entire obstruction of the Passage by Boat & also of Fish Praying for relief as pr Petition on file, To which Petition the said Elihu Loomis pleaded in Abatement as on file, which Plea in Abatement was Judged insufficient by this Assembly, And thereupon the parties were heard on the Merits of said Petition, and in Order to ascertain the practicability of opening a Pent Lock to facilitate the Navigation of said River, this Assembly did appoint a Committee to examine and to view the Circumstances and situation of the Dam aforesaid, and whether a Lock or Pent Lock might not be formed in said Dam to facilitate the Navigation of said River Scantick without injuring said Dam or without much expence of Waters which said Committee having viewed the situation and Circumstances of said Dam Reported to this Assembly, Which Report is accepted.

Resolved by this Assembly that Liberty be and Liberty and Authority is hereby Granted the Petitioners to erect at the said Dam of the said Loomiss a Pent Lock at the North End of said Dam sufficiently broad and deep to admit the passage of Boats, and to maintain the said Pent Lock all at their own expence Provided the Petitioners do erect said Pent Lock at or before the first Day of September next.[28]

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Upon the Memorial and Representation of Jonathan Palmer Jur Collector of the Tax on the Inhabitants of the Town of Windsor Granted by the General Assembly on the List for the Year 1794, that the Listers of said Town returned said List £2733.0.0 too much, which Charges him with the Tax on that Sum more than he can Collect of the Inhabitants of said Town

Resolved by this Assembly that there be abated to the Inhabitants of the said Town of Windsor the aforesaid Sum £2733.0.0 Pounds of the List returned to the General Assembly for the Year 1794.

Upon the Petition of Nicholas Wansor of New Milford in Litchfield County of Wait Ball of New Fairfield in Fairfield County and others their Associates, Shewing the necessity of Clearing out Ousatonuck River from a place called Carlton's Bridge in New Town up to the Mouth of the Still River so called in said New Milford, where the same empties into said Ousatonuck River a little above the great Falls so called, and of removing all Rocks and other Obstructions to the Boating in said River, and shewing that by said Obstructions being removed in some places and suitable locks being built and erected in other places said River might be made navigable for Boats and Scows from two to eight and Ten Tons Burthen, And said Petitioners having proposed in said Petition to this Assembly That they within the Term of three Years next after the rising of this Assembly will Clear and remove out of said River from said Carltons Bridge to said Still River all Obstructions to the Navigation & Boating thereof, and that they will as soon as may be within the Term aforesaid build and erect at such place or places between said Carltons Bridge and said Still River upon the Margin or adjoining said Ousatonick River as they shall Judge necessary to enable them to accomplish the great Object,

28. See above, pp. 165-66, 294 and note.

Good Suitable and sufficient Locks & Keys to accomodate Boats of the aforesaid Description, through which the same can and may pass and repass with or without Load. Provided this Assembly would Grant to the Petitioners and their Associates, and secure to them the Right and privelege of demanding and receiving Sum or Sums of Money for each and every Boat, &c which shall be Navigated up or down said River so cleared as aforesaid, or which shall pass or repass through any Lock, which shall [be] so erected as aforesaid, as a Fare for navigating or passing through the same, as pr Petition on file.

Resolved by this Assembly that said Propositions be and the same are hereby accepted. And that Liberty be and hereby is Given and Granted to said Petitioners and their Associates their Heirs and Assigns to Clear out said Ousatonuck River from the confluence thereof with said Still River down to said Carltons Bridge & to remove Rocks and all other obstructions in the same which now impede and prevent the navigation and Boating thereof, from said Still River to said Bridge and to dig or Sink a Channel or Chanels in the same. And said Petitioners & their Associates their Heirs and Assigns are also hereby Authorized and fully Impowered at their own Risque and expence to build set up and erect upon the Margin or adjoining sd Ousatonuck River: at such Place or Places between said Still River and said Bridge as they shall Judge necessary to enable them to carry into effect the great object of Navigation a good suitable & sufficient Lock or Locks & Keys, or to dig or sink a Canal or canals through which Battoos, Scows or other Boats from One to eight or Ten Tons burthen can and may pass & repass with and without Loads.

And it is further Resolved that said Petitioners and their Associates their Heirs and Assigns as soon as said Rocks and other obstructions which now hinder & impede said Navigation and Boating, shall be by them removed and Cleared out of said River so that Boats of the aforesaid description and Burthen can with safety pass and repass, and as soon as said Petitioners can satisfy the County Court in Fairfield County that they have complied with this Act they are entitled to take and receive the following Fare, shall have a Right & Liberty & Liberty is hereby Given and Granted unto them their Heirs and Assigns to Demand take and receive for each Battoe, Flatt, Scow, Canoe and other Boat which shall be Navigated or taken up or down said Ousatonuck River, from said Bridge to said Still River, the following Rate or Fare viz

For each Loaded Battoe, Flatt, Scow Canoe or other Boat of One Ton Burthen and under the whole distance aforesaid without passing through any Lock	50 Cents
For each empty Battoe, Flatt Scow, Canoe or other Boat of the last above description & burthen without passing through any Lock the whole distance aforesaid	45 Cents
For each Loaded Battoe, Flatt, Scow, Canoe or other Boat of more than One and under two Tons burthen the whole distance aforesaid not passing through any Lock	65 Cents
For each empty Battoe &c of the last above description and Burthen the whole distance aforesaid without passing through any Lock	60 Cents

Exhibit 25

For each loaded or empty Battoe, Flatt Scow Canoe or other Boat of larger dimentions and burthens the whole distance without passing through any Lock a Rate or Fare in the proportion aforesaid.

For each Battoe &c of each of the above descriptions dimentions and Burthens which shall be Navigated in said Limits, a distance less than the whole without passing through any Lock, a Rate or Fare for the actual distance which said Boats shall be taken or Navigated in the above mentioned proportion.

And it is further Enacted that as soon as said Petitioners and their Associates their Heirs and Assigns, shall Build erect and set up on the Margin or adjoining said Ousatonuck River within the Limits aforesaid, a good suitable and sufficient Lock or Locks and Keys through which said Battoes &c of the aforesaid Burthens can pass and repass and shall satisfy said County Court as aforesaid Provided the same be done within three Years, they shall have a Right and Liberty and Liberty is hereby given them their Heirs and Assigns to demand take and receive for each Battoe &c which shall go or pass through the same the following Fare viz

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For each Loaded Battoe Flatt, Scow Canoe or other Boat of One Ton Burthen and under which shall pass thorugh any Lock for each passage 75 Cents

For each empty Battoe &c of the last above description and Burthen for each passage through any Lock 70 Cents

For each loaded Battoe Flatt Scow Canoe or other Boat of larger Burthen than One or less than two Tons for each passage through any Lock 90 Cents

For each empty Battoe &c of the last above description and Burthen for each passage through any Lock 85 Cents

For each Loaded or empty Battoe, Flatt Scow Canoe or other Boat of larger dimentions and Burthens, for each passage through any Lock a fare in the proportion aforesaid.

And it is further Resolved that in Case said Petitioners their Heirs or Assigns shall have Occation for and be necessitated to use and Improve, at any future Period of Time the Margin of said River or Lands adjoining the same for the purpose of making a Foot or Horse Way, or for Building and erecting a Lock or Locks, or diging or sinking a Canal or Canals thereon, which said Margin or Lands adjoining are, or may be Owned by some Person or Persons, who shall refuse to sell the same to the said Petitioners, for a fair and reasonable Compensation, then said Petitioners and their Associates their Heirs and Assigns may on application by them made to the County Court in that County where said Land or Margin may be, agreeably to the Spirit and intent of certain Paragraphs of the Statute Law of this State Entitled An Act for Providing altering, regulating and amending Highways, Compel the Proprietor or Owners of said Margin or Lands to have the same laid out to the said Petitioners in the same way and manner as though Application had been made by them to

said Court for a Highway, And said County Courts on such Application being made to them as aforesaid, are hereby Impowered to proceed and Grant the same releif as though a new Highway was prayed for

And it is further Resolved that the Petitioners their Associates their Heirs and Assigns and each of their Heirs and Assigns are hereby Impowered, to exact Demand take and receive the above and foregoing Rates or Fares, untill they have received Monies sufficiently to indemnify themselves for the Money they shall have advanced in this Business, Twelve pr Cent Interest thereon and all necessary Repairs laid out on said River and Locks;

Provided nevertheless that nothing in this Act be construed in the least Degree to affect the rafting of Timber and Lumber down the present Bed or Channel of said River and the Fishery thereof, And Provided that the Petitioners their Heirs and Assigns, after the expiration of Three Years annually render their Accounts to the County Court in Fairfield County of the expences incurred in erecting said Locks, and improving the Navigation of said River, and of the Moneys received from Boats passing said River, and that said Accounts be approved by said Court;

And it is further Resolved by this Assembly that said Petitioners their Associates their Heirs and Assigns shall at all reasonable Times and Seasons give due proper and suitable attention, and attendance to the Navigation of said River, and said Lock or Locks, so as to accomodate said Boats and the Passage of the same and on failure thereof to pay all Just Damages to the Person or Persons injured by such neglect or inattention.[29]

Upon the Memorial of Peter Johnson Joel Northrop and Levi Hubbard all of New Haven in the County of New Haven, Representing to this Assembly that said Johnson and Northrop are Executors of the last Will of John Albro late of New Haven Deceasd, And that said Hubbard is Guardian to Lois and Fanny Albro, only Legatees of said Deceasd, That the Debts and Charge against said Estate, allowed by the Court of Probate for the District of New Haven amount to £404.1.3½ leaving for the said Legatees a Dividend of £100.0.0, That the real Estate consisting of Lands and Buildings amounts to £170.0.0 and the Moveables to £334.1.3, the whole the whole [*sic*] amount of Inventory being £504.1.3, That said real Estate consists of Land and a Tan House and Vatts and accomodations for Tanning, That the property is of a saleable Kind at this Time And that it will be for the Interest of said Legatees that the whole of said Real Estate may now be sold, Praying that said Executors may be Impowered

29. In 1761 the Connecticut legislature granted permission for running a lottery in order to raise funds to clear the Housatonic River from the Massachusetts line as far down as Derby. One of the lottery managers died while negotiations were in progress, the lottery funds were involved in his estate, and the work was never done. The company granted the right to clear the river in this session also came to nothing. *Colonial Records of Connecticut*, XI, 530-531, 600-601; XII, 285-286, 337, 419-420, 630-631; XIII, 269, 387-388; Samuel Orcutt, *History of the Towns of New Milford and Bridgewater, Connecticut, 1703-1882* (Hartford, 1882), pp. 450-451; *Considerations on the Practicability and Importance of Opening a Navigation to the Interior of the State, by the Housatonick River* (New Haven, 1822), p. 3-5.

Exhibit 25

Exhibit 26

THE HOUSATONIC

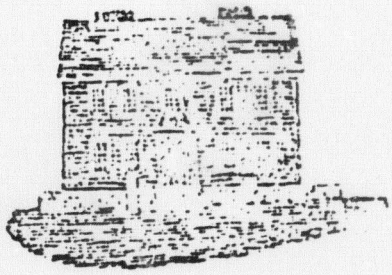
PURITAN RIVER

by

CHARD POWERS SMITH

Illustrated by

ARMIN LANDECK



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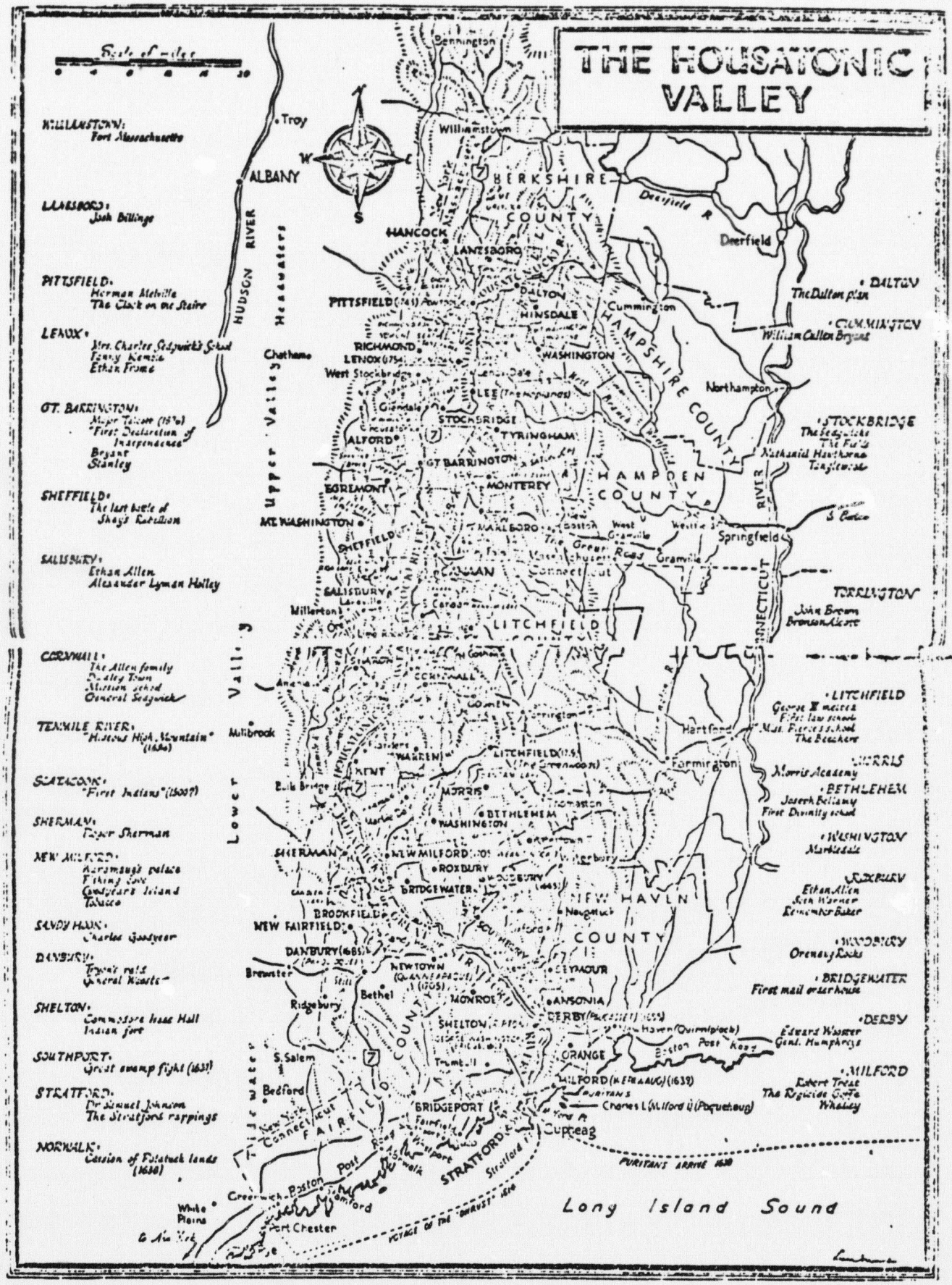
(1946)

Exhibit 26


THE HOUSATONIC VALLEY
Scale of miles
0 5 10 15 20
Bennington
Troy
ALBANY
Williamstown
BERKSHIRE COUNTY
HANCOCK
LANESBORO
Deerfield R.
Deerfield
DALTON
The Dalton plan
PITTSFIELD (1761)
HINSDALE
Cummington
CUMMINGTON
William Cullen Bryant
RICHMOND
LENOX (1754)
WASHINGTON
Chatham
West Stockbridge
Northampton
LEE (Incorporated)
Glendale
STOCKBRIDGE
The Sedgwicks
The Fullers
Nathaniel Hawthorne
Tanglewood
ALFORD
TYRINGHAM
GT. BARRINGTON
HAMPDEN COUNTY
EGREMONT
MONTEREY
MT. WASHINGTON
MARLBORO
Springfield
SHEFFIELD
SALISBURY
Millerton
LITCHFIELD COUNTY
TORRINGTON
John Brown
Bronson Alcott
CORNWALL
The Allen family
Dudley Town
Mission school
General Sedgwick
TEMPLE RIVER
"Hideous High Mountain" (1680)
Milibrook
Hartford
LITCHFIELD
George W. Masters
Film: law school
Miss Pierce's school
The Beechers
SCATACOOK
"First Indians" (1609?)
KENT
WARREN
LITCHFIELD (1719)
Farmington
MORRIS
Morris Academy
BETHLEHEM
Joseph Bellamy
First Divinity school
SHERMAN
Roger Sherman
NEW MILFORD
WASHINGTON
WASHINGTON
Morrisdale
ROXBURY
BRIDGEWATER
NEW HAVEN COUNTY
Naugatuck
SAUGY HOUSE
Charles Goodyear
BROOKFIELD
NEW FAIRFIELD
DANBURY (1685)
DANBURY
Tryon's raid
General Wooster
Brewster
NEWTOWN (Queen Anne's Parish) (1705)
SEYMOUR
Oronoque Rocks
BRIDGEWATER
First mail order house
SHELTON
Commodore Isaac Hull
Indian fort
Ridgebury
Bethel
MONROE
ANSONIA
DERBY (Paugussett) (1654)
DERBY
Edward Wooster
Gen. Humphreys
Haven (Quinnipiack)
Easton
Post Road
SOUTHPORT
Great swamp fight (1637)
S. Salem
Trumbull
ORANGE
MILFORD
Robert Treat
The Regicide Goffe
Whalley
STRATFORD
Dr. Samuel Johnson
The Stratford rappings
Bedford
MILFORD (NEW HAVEN) (1639)
Charles L. (Milford) (Paquetheag)
BRIDGEPORT
FAIRFIELD COUNTY
Connecticut
Fairfield
Cupheag
NORWALK
Cession of Palatuck lands (1638)
Westport
Post Road
Saugatuck
PURITANS ARRIVE 1638
STRATFORD
Stratford
Greenwich
Boston Post Road
Stamford
White Plains
Port Chester
Long Island Sound
Upper Valley
Lower Valley
HUDSON RIVER
Housatonic River
Housatonic Headwaters
Still water
Connecticut River
Connecticut
Deerfield R.
Westfield R.
Farmington R.
Naugatuck R.
Housatonic R.
Housatonic R.
Housatonic

their enemies, the uplanders [the Mohawks?] and that the English should have all their land only providing them some place for planting; which I think is but a reasonable request, and I hope you will atend rules of mercie in that case; not that they shall be their owne carvers what they will and wherefore their exorbitant humour will carry them to disposes you and your houses. Expetience proves it; give an Indian an inch and he will take an ell . . ."

Altogether, there is little doubt that the English acquired the Stratford territory by legal conquest, and it is probable that the sachems, less than a year after the Great Swamp Fight of 1637, "the fear of the English being upon them," confirmed the acquisition by gift, or by sale for a token figure. Yet a few years later, when the English had duly "atended rules of mercie" by leaving them land for both planting and fishing, the natives began to question the original acquisition. At the same time, the consciences of the colonists were troubled about it, for at first single settlers, and presently the colonial government, obtained new cessions of the same land by purchase for good consideration. Nevertheless, the "exorbitant humour" of the Indians having been aroused, they continued to make a racket of their claims, and generally there was bad blood about it for half a century, leading sometimes to open hostility, though never to war. The Stratford difficulties were an example of the effects of a process which, though legal, is against universal human conscience. And, legal or not, it shows the inconclusive results of conquest by a supposed "master race."

For English and practical purposes, the military expedition of 1637 was the discoverer of the coast west of the Connecticut River. It led to the settlement of New Haven in 1638 and of the first two plantations at the mouth of Great River a year later. Meanwhile and thereafter those heroes of greed and adventure, the trappers and traders, were pushing up into the wilderness. By 1642 Messrs. Wakeman, Goodyear and Gilbert of New Haven had sailed or paddled thirteen miles up the river and built a trading post at Paugasset, or Derby. In 1644 Goodyear paddled or poled up

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thirty miles farther of mostly fast water and built a large post on what is still called Goodyear's Island, just below the Lover's Leap rapids and the big Fishing Cove at Weantinock, or modern New Milford. How much farther these adventurers penetrated is matter of conjecture. There is no record of exploration above New Milford until the 1670's.

The entrance of Awanux—the English—into the Upper Valley, as at Milford and Stratford, was to the sound of their muskets making good a punitive expedition. In 1676 King Philip's War, which had convulsed all of New England, ended with the death of the brilliant Wampanoag sachem. In August, Major John Talcot, with a body of Connecticut soldiers and friendly Indians from the Connecticut River, pursued a party of two hundred Indian fugitives along the Indian trail—later the "Great Road"—from Westfield to Albany, which crossed the "Ausotunnoog River" at a ford at the Great Wigwam, future Great Barrington. On the level bank of the river just west of the ford and within the region of the Great Wigwam—the spot now marked by a stone between the river and the big brick schoolhouse—the Indians made their encampment. Here Talcot attacked them at dawn, killed twenty-five, captured twenty and routed the rest, many of them "sorely wounded, as appeared by the dabbling of the bushes with blood, as was observed by them that followed—a little further." One story glorifies the slaughter with the information that the river was reddened by it. A later account adds that "there were sundry lost besides the forty-five forementioned, to the number of three score in all; and also that a hundred and twenty of them are now dead of sickness." As already suggested, it may have been at the time or just before Major Talcot's victory that the Housatonic Indians vacated the Great Wigwam and the surrounding territory.

Less than in the case of the Great Swamp Fight, thirty-nine years earlier and seventy-five miles to the south, was this first flourish of power related to the later colonization by the English. The Upper Valley remained an unsettled wilderness where Dutch from the Hudson were presently

Exhibit 26

Exhibit 26

In the annals of the two colonies during the next dozen years, four events are of historical consequence:

In 1643 Milford, requiring protection against the Dutch, surrendered its previous independence and joined the New Haven Confederation, accepting perforce and conditionally the theocracy which it had not practiced before.

In 1645 Stratford's meeting house got the first bell in Connecticut.

In 1648 Moses Wheeler of Stratford got the first concession for a ferry across the Great River—a raft with a pair of oars at each end. This Wheeler, incidentally, was a giant, hated Indians and made himself hated by them. One morning, when he was in his cellar, a group of Indians appeared in the hatchway suggestively armed with tomahawks. Picking up a half-empty cider barrel, Mr. Wheeler said, "Let's all have a drink," and himself drank from the bung. The Indians thought the barrel was full, lost their nerve before such strength, and departed.

In 1651 occurred the supposed hanging of "Goody" (Goodwife) Bassett for a witch on Witch Rock in Stratford, the only execution for witchcraft in the valley.

Throughout this early period Stratford was in a continuous state of tension with the Indians, as was Fairfield to the west of it, because of the refusal of the new generation of natives to recognize the English acquisition of the land by conquest. The trouble was aggravated by the cattle and swine of the whites straying into the Indians' planting field—Bridgeport—and by the Indians' weakness for stealing the crops of the whites, so that an armed guard was always maintained around all fields. Between 1644 and 1649 there were three cold-blooded murders by Indians in Fairfield, two of them of women. The three murderers were properly arrested, and, after two of them had escaped, the third was brought to trial and executed. The General Court at Hartford rejected a motion to declare war, a measure which, by depriving the Indians of civil rights, would have greatly helped the colonists. In 1656 a Mr. Ludlow of Fairfield confirmed his title to a large tract by purchasing it and taking a regular

shares in the trading post already established there by some New Haven people. Nevertheless, they continued to make a persuasive show of being good Puritans, most of them making every Sabbath the twenty-mile round trip to attend their old church in Milford, though the law with its five-shilling fine did not require them to go so far.

It is plain that all did not go smoothly between Milford and her northern daughter. During the period of first settlement there occurred an obviously hostile though obscure event referred to in local history as "the incident of Parson Prudden's pigs." Also, Milford for a long time forestalled Paugasset in its efforts to get independent township, and in 1659 the "Wolf-killer" Edward Wooster asked the General Court whether he should seek from New Haven or from Milford the bounty for seven wolves destroyed. In 1660 the Paugassetites started the shipbuilding industry, which was to flourish for almost two centuries. In 1661 Edward Riggs sheltered the regicides Goffe and Whalley in his palisaded house while they were being moved from the famous Judges' Cave in New Haven to the house of Micah Tompkins in Milford, where they were successfully concealed for three years.

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Fourth Tribe, Woodbury (1665-1685)

After the death of their first minister, the Reverend Adam Blakeman, in 1665, Stratford split in two on the issue of the Halfway Covenant, the conservatives immediately ordaining the Reverend Israel Chauncey and the liberals, or Halfwayites, ordaining three years later the young Reverend Zechariah Walker. There followed some years of acrimonious squabbling, mostly epistolary, at the height of which one "loving brother" wrote to another in the opposite camp: "It seemeth our greatest difference is what is our difference."

In 1670 the General Court of Connecticut enacted in dignified annoyance that "it shall not be offensive to this Court if Mr. Walker and his Company doe meet distinctly elsewhere." Accordingly in April, 1673, the first contingent

of the Walker schism, being fifteen families complete with children and worldly goods, passed Paugasset with rafts and canoes, bound for the tributary Pomperaug sixteen miles farther into the wilderness up the Great River. Four or five miles up the small stream they had bought from some Indian chiefs, sight unseen, an allegedly large and fertile valley. Early on what was probably the third day of their journey, they passed the mouth of the Pomperaug as being too small according to the instructions they had from the Indian sellers. Four miles farther up they climbed the larger Shepaug, including lofty Roxbury Falls, wandered lost for a day in the Roxbury region, and were finally led by the Lord southward through the wilderness into their excellent valley, which they immediately recognized from the top of Good Hill. What they had not been apprised of, they saw also in the middle of the valley a fortified and occupied Indian village on a natural pinnacle which they later called Castle Rock. This led to a conference in which three conflicting views were advanced, each of them soundly puritanical. One proposal was that they first kneel down and thank the Lord for having led them to this valley and then await His advice. The second was to go down immediately and attack the Indians. The third was to return to Stratford and sue the chiefs who had sold them the land. The pious view prevailed, and when, after thanks, they went down into the valley they were not disturbed.

For three years thereafter they lived a migratory existence in their new domain, occupying tents in the summers, laying out and clearing the ground, building a mill for their grain, worshiping in the gorgeous, uplifted, natural temple of the Orenaug rocks, clearing by order a highway down to Paugasset, and returning to Stratford for the winters while the Indians stole the grain they left hidden in log cribs. During King Philip's War in 1676, the development was suspended for fear of disaffection among the local Indians and because Woodbury, like the other towns in the valley, sent more than its quota of men to the colonial forces. In 1677, after the peace, they completed permanent settlement

Exhibit 26

Exhibit 26

tion by some passer-by. The monument stood until some time in the 1880's, when a family from Bridgeport bought the site and built a pseudo castle on it, the stones of Waramaug's monument being utilized in the foundation and chimney of the shabby pile. Meanwhile the largest lake in his old domain became a more permanent monument by being named for him; and in 1852 a private school in near-by New Preston also was given his name.

After Waramaug's death in 1735 the Weantinocks began increasingly to move up the valley to the congregated remnant of all the river tribes at Scatacook in northern Sherman and southern Kent. But the tradition of friendliness with the New Milford people continued well into the nineteenth century, as long as the Indians made their annual migrations downriver to exercise the fishing rights they had reserved in the "Waramaug," or "Good-Fishing-Place" below the rapids. As a matter of unwritten right, they always stopped with the old families on the way, sleeping in the barns in the summer and in the houses in the winter, entertaining the children in the evening with their stories. And as a matter of duty while they enjoyed hospitality, they did the heavier chores and repaired the baskets that had been bought from them.

Waramaug's reign at Weantinock constituted the only successful attempt in the valley to keep the Indian culture alive and distinct. Comparable was the more artificial enterprise of the reservation at Scatacook in Sherman and Kent, where the Indians are supposed originally to have entered the valley on the western side of the Great River where the Tenmile flows in. There the important element of Indian independence was missing. The land had first been bought by the colony and was given back only in the pleasure of the colonial government, whose virtual wards the Indians became. The result was that they degenerated only a little less rapidly than those who lived in the white settlements.

Even before Waramaug's death, Gideon Mauwehu, a man of Pequot descent, was gathering the remnants of the river tribes to this ancestral site. In 1738, when Kent began

A HISTORY

OF

CORNWALL, CONNECTICUT

A Typical New England Town

BY

EDWARD C. STARR, B.D.

1926

In Northwestern Connecticut, bounded on the West by the canyon of the Housatonic, lies the town of Cornwall. Roughly speaking, it consists of three parallel valleys at different levels, with wooded ridges between them, rising thus in successive steps to the heights of Goshen. The ridges, not the valleys, were the first settled. It is a rough, broken country, beautifully picturesque, with many clear streams and striking little peaks of curious nomenclature. It stamps itself indelibly upon the memories and the affections of those who know it.

Not one of the old towns as towns go in Connecticut, its settlement was typical of the movement into the interior which marked the first half of the eighteenth century. It was old enough to share in the Old French War and to play its manful part in the Revolution. It is hard to realize that at this earlier date Connecticut was more populous than New York and was called upon to protect New York's borders from French and Indian invasion. Dibble's diary, which is one of the treasures of the Cornwall Library, gives a picture of travel and service in 1758 when the town was but twenty years of age, which is of historical value. A dramatic incident in the next century was the founding of a missionary school for Hawaiians to be succeeded by Indian lads from the South and West. The maidens looked with favour upon these youths and several marriages resulted. Later came competition with the grain lands of the West and Cornwall's population dwindled.

The history of this town now lies before us, its parishes, its social and family life, its work and play, and heart and soul, for nearly a hundred and ninety years.

The author, Rev. Edward Comfort Starr, for twenty-eight years pastor of the Congregational Church in Cornwall, is admirably fitted for his task. Of good old Connecticut stock, a graduate of Yale College and Seminary, after service in minor parishes, Mr. Starr was called to a church in Hartford. Ably he wrought at this post for several years when health gave out and he sought the hills "from whence cometh our help."

The material for this History of Cornwall has been gathered from the original sources of church and town records, from ancient manuscripts and tradition, from personal familiarity with town ways and people during a generation of its life. A born antiquary, a sound historical student, possessed of real literary skill, and with loving sympathy for his topic, Mr. Starr has made an important contribution to the long list of local histories in New England.

It is from such material as this that some day an adequate social history of New England will be written.

THEODORE S. WOOLSEY.

Cornwall, September, 1925.

BEST COPY AVAILABLE

limits of the whites, near the western boundaries of the present state of Connecticut. In Sharon, Salisbury, and over the line in New York, there were Indians who were christianized by Moravian missionaries, especially at Gnadensee (Lake of Grace). In Kent the Scatacook (or Schaghticoke) community, gathered under the lead of Mauwehu, have hardly disappeared. They were wards of the State for perhaps a century, and occasionally some resided in Cornwall, like "Maw-wehew," as his son's tombstone spells the name. The most noteworthy of these chiefs was Waramaug whose settlement was in New Milford near "Lover's Leap" rock, and toward the lake that bears his name. He was a man of ability and character and had a rather remarkable wigwam, decorated with paintings of all kinds of birds and beasts by a native artist brought from a distant tribe.

The first step toward the settling of Cornwall was the purchase from Waramaug of a tract which extended from New Milford to Cornwall Bridge. On 19 June 1716 Weramaug signed the deed with his M mark for himself and Nepato his associate, conveying to Benjamin Fayerweather of Hartford and his associates.—Bostonians for the most part,—"a certain tract of land supposed to Lye in the Colony of Connecticut, or Province of Massachusetts Bay in New England, or in the Province of New York,—either in part or in whole as may be known upon the settlement of the lines between the said governments, and Lys upon the Easterly side of Stratford Great River and is bounded on New Milford Township on the South," a "full mile" wide along the River as it runs, "about five and Twenty or Thirty mile by estimation," so as to take in "the Mast Swamp so called, about Two and a half mile beyond the Deep Brook, at ye entrance of ye said Swamp, to bounds at ye mouth of a Little River." The northern boundary runs eastward "crossing ye said River to ye top of a great Mountain; . . . . also ye use and benefit of the said Great River to pass and repass in at any and all times with Rafts, trees, Loogs or What else so ever." (H. 403. A)

This Great River, also for a time called the Pawtucket, and then the Ousatunnuc, has for nearly a century been known as the Housatonic. In Mr. Stone's writings, apparently the earlier spell the name Ousatonuc, but the later, from about 1830, Housatonic. The little river was Furnace Brook, and "Deep Brook" is Deep Brook still. The Mast Swamp, between the two, was so named because timber for masts was there cut and floated down the river. It included most of Cornwall Bridge and Puffingham. The original North line of New Milford was a mile southward of the present boundary. This deed may explain how names like John Hancock and Robert Treat Paine appear on Cornwall records. I believe a compromise between its grantees and Cornwall settlers was arranged. The so early name of Mast Swamp proves that logging on the river long preceded settlements near it. That nobody knew under what government this region belonged was due to the fact that it was unsurveyed wilderness with no residents nearer than New Milford and Litchfield. Waramaug and Company were only "squatters," and might well sell out for £29, though that was little more than one cent per acre.

In May, 1731, as the second step toward settling Cornwall, "the Governor and company" ordered the towns in the Northwestern part of the Colony to be laid out; and Edmond Lewis, William Judd, and John Buel were appointed to do it. Township B, Cornwall, was bounded on the East by Goshen (township A), on the West by the Housatonic, on the North and South by parallel lines running from the western corners of Goshen to the

In the October session of 1737—as the third step—an act was passed by the General Assembly directing the sale of "all townships in the Western Lands on both sides of the Ousatunnuck River." Each town on the East side was to be divided into 53 Rights, one for the use of the Ministry forever, one for the first minister, one "for the support of the School in such Town," and the other 50 were to be sold at auction to inhabitants of the colony, who should remain three years on their Rights, finish a house 18 feet square and "7 feet studd" within that time, and subdue and fence 6 acres. "The Middle town."—Cornwall,—was to be sold the first Tuesday of February, 1738, at Fairfield Court House, "the same to be set up at fifty pounds a Right." These sales were to be continued from their assigned dates until completed, and purchasers had two years in which to enter upon their lands. Cornwall was all sold Feb. 8th, the Rights being bidden off at from $80 to $112 each. The 27,000 acres were so purchased at about seventeen cents each, in Rights not quite equal to a square mile, but of about 550 acres. It may be worth adding that township A, Goshen, was sold at New Haven in December, 1737; C, Canaan, at New London in January, 1738; D, Norfolk at Hartford in April, 1738 (and again at Middletown in 1742, the purchasers giving it up after making the first payment, except Timothy Hosford who sold out and moved to Cornwall). What a mistake that they did not hold their land for the rise that now puts high prices upon the bleak hills, hardhack pastures, and laurel thickets of fashionable Norfolk! The state finally succeeded in disposing of the township by auction at Middletown in 1754 (excepting what Hosford had sold to Titus Brown). Township E, Kent, was sold at Windham in March, 1738. The upset price for the Rights in these towns varied curiously, Norfolk and Kent, like Cornwall were to sell at not less than £50, Canaan and Goshen £60, Sharon and Salisbury £30 though the Salisbury Rights were more than twice as large, its greater territory being divided into but 25, which offered that town for some seven cents per acre. Just twenty years earlier Litchfield had been sold, the 25 Rights then appraised at £5 each. It is said that Connecticut money had not greatly depreciated, which would indicate a varying demand for land,—or, perhaps, across the Housatonic was too far west, and Litchfield too—what?

The land was divided gradually to the owners of the 53 Rights, usually after considerable delay. They were dealt out in Divisions of unequal amounts, two being usually voted at one time, but laid out and chosen perhaps a year apart.

1 & 2	Divisions voted	6 Sept. 1738,	50 acres each
3 & 4	Divisions voted	19 Sept. 1739,	100 acres each
5 & 6	Divisions voted	1745.	50 acres each
7 & 8	Divisions voted	25 June 1750.	35 acres each
9 & 10	Divisions voted	25 Mar. 1796.	7 acres each
11	Divisions mentioned	17 Mar. 1828.	

About this latter date Capt. Seth Pierce had bought up the remaining shares of half the Rights, and thereafter Obadiah Bierce owned a great part of them and seems to have acquired all the unassigned territory. The above 484 acres each would leave about 7000 acres for roads, lake, Green and final divisions,—about one-fourth of the town's area.

Before 1738 people from the southward, especially New Milford, pastured cattle along the river in Cornwall, and destroyed much timber to increase the pasturage. They also cut logs and shipped them to the seashore, masts in particular. Those who cared for the cattle built summer shelters for themselves and [illegible]

Extract Copied
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was promptly granted by the General Assembly, and George Halloway was appointed to call the first town meeting. The proprietors also voted to ask that they might settle a minister and lay a tax of four pence per acre (on each of the 300 at that time laid out to them), for three years; and to ask for delay of the required payment for their Rights. This taxed non-residents, but omitted polls.

It is accordingly believed that the First Church was organized in 1740. In May, 1748, the Colony deeded the township (exclusive of 300 acres of previously granted College Lands) to the Cornwall Proprietors, specifying "together with all and singular the woods, timber, trees, underwoods, lands, water, brooks, ponds, fishings, fowlings, mines, minerals, and precious stones," with the condition that they pay the King one-fifth of all gold or silver ores that should be found. The Cornwall stones have proved anything but precious, and the search for any ores has been only an expense.

In 1750 the town had been organized for a decade; it was twelve years since the land was sold to the original proprietors. At the beginning the settlement was sudden, then almost ceased, but in 1748 had again made a rapid increase as the following lists of owners show. An X before a name marks it as in the list of 1748 which probably would differ little from that of 1750,—at least is the nearest to it that we have. The first purchasers were by no means all prospective settlers, but in many cases land speculators, and some, like the Allens, continued to be so afterward.

THIRTY-EIGHT EARLY INHABITANTS.

These drew lands of the 1st and 2d divisions, 1739.

Daniel Allen (a son Daniel appears later).
Gideon Allen sold to Samuel Sturgis.
X Joseph Allen, sold 1 Right to Daniel Allen.
X Thomas Ballard.
Isaac Bissell, his son Benjamin appears later.
Samuel Bryant, sold to John Dibble 1738.
Stephen Burr.
Stephen Burroughs, received deed 8 Jan. 1738.
Samuel Butler.
Timothy Collins, Sold to Nathaniel Jewell, 1739.
James Dennie.
X John Dibble, bought of S. Bryant.
Reuben Dibble, bought of Ebenezer Bishop.
Benajah Douglas.
Peter Eastman, sold to Samuel Roberts 1739.
Joseph Frost, sold to Roger Bissell.
William Gaylord, received deed 8 Feb. 1738.
X Samuel Hall, sold to Nathaniel Jewell 1739.
X Thomas Harris.
Joseph Kilbourn, sold to Daniel Harris?
Samuel Kilborn.
Nathan Lyon, sold to Josiah Bierce, he to James Douglas and Samuel Abbott.
sold to George Holloway.
Benjamin Osborn, sold to John Holloway.
Jacob Patchen, Josiah P. sold to Benjamin Hough.
Timothy Pierce, sold to James Douglas.
Samuel Roberts.
Ebenezer Seeley, sold to Nathaniel Green, 1740.
Eliphalet Seeley.
Elizur Seeley.
John Sherwood.
Ephraim Smedley.
James Smedley.

Exhibit 28

They Found A Way

Connecticut's Restless People

BY

Iveagh Hunt Sterry
and
William H. Garrigus

1938
BRATTLEBORO Stephen Daye Press VERMONT

Copy 2.

16

MATT LYON .... *The Dragon of Democracy*

MATT LYON put to shame that old adage, "He who talks most, fights least." Redemptioner, lumberman, soldier, editor, manufacturer, inventor, and spell-binder, who successively represented two states in Congress and won one election while still in jail charged with sedition, he was in the vanguard of that host of dauntless fighters who fight on, regardless of the odds.

Born, July 14, 1750, in County Wicklow, Ireland, Matthew Lyon saw his father executed for conspiracy against the Crown, and at the age of fifteen, took ship for America. A gold guinea was his only stake for a start in the New World, and so, to make sure of its safety on the voyage, he asked the captain to keep it for him. The captain kept it, and on arrival in this country, sold Lyon for the passage money, to Jabez Bacon, merchant prince and trader of Woodbury, Connecticut.

The young Irishman was too strenuous for Jabez, and when Hugh Hannah of Litchfield offered to trade a pair of Devon steers, worth twelve pounds, for the lad, Bacon accepted with thanks. In later life Matt frequently swore "By the bulls that bought me!"

Through the rugged fastnesses of Litchfield County,

Matt Lyon worked as a woodcutter and at hauling logs to the mills. Puffingham and Dark Entry knew him as a massive giant with hands that would fell an ox or crush a man's skull like an eggshell. The Salisbury charcoalers ran and hid when Matt Lyon came strolling into Town M and ordered them to stop cutting good timber for fuel for Riga Forge, and the lumberjacks of Mast Swamp gloried in tales of his strength in handling the tall pines cut for shipbuilders at Derby and Hudson River yards.

About 1771, Matt Lyon married Miss Hosford of Litchfield, a niece of Ethan Allen. In 1774, they followed the original Green Mountain Boys to Vermont, and purchased lands near Wallingford where they resided for three years. Possessed of many natural qualities of leadership and a pioneering spirit, Matt Lyon cruised with other Connecticut men through the border country and took an active part in the fights over the New Hampshire grants and in the early revolutionary actions of the Allen boys.

At Ticonderoga, Lyon stood at his leader's right hand and scowled at the frightened Britishers. Under Montgomery, the Irish-Yankee served as an adjutant of a Vermont regiment that operated during the Canadian campaigns. Later, when a free-lance lieutenant of irregular infantry, the young giant was ordered by General Gates to relinquish his command because of the lax discipline shown by his carefree troopers.

Dishonored because he could not bring himself to bear

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PART I

HISTORY OF
GREAT BARRINGTON

(BERKSHIRE)

MASSACHUSETTS

BY

CHARLES J. TAYLOR

1676 - 1882

ANNOTATED BY

RALPH WAINWRIGHT POPE

GEORGE EDWIN MACLEAN

PART II

EXTENSION

1882 - 1922

BY

GEORGE EDWIN MACLEAN

"People will not look forward to posterity
Who never look backward to their ancestors."
Edmund Burke

Published by
The Town of Great Barrington
1928

FOREWORD

For years the public has asked for a new edition of Mr. Taylor's History of Great Barrington now long out of print. Possibly anticipating such a request, Mr. Taylor had from 1882 an interleaved copy of his book in which he made notes up to his death in 1904. His important notes have been incorporated in the footnotes of this edition. His only daughter, Clara, my wife, intended, when she and I should be at leisure, to use his notes and extend the history to date. She died February 17th, 1922, in Bournemouth, England. The town that year appointed a committee consisting of Judge Walter B. Sanford, Orlando C. Bidwell and John Cronin 2d to report on bringing Mr. Taylor's history up to date and reprinting it. In 1923 the town heard the report of the committee and made an initial appropriation for the purpose. The committee invited Mr. Ralph Wainwright Pope and me to undertake the work.

The text of Mr. Taylor's history has been reprinted without change. This necessitated making footnotes to bring the book up to date. Mr. Ralph Pope, by personal visits to places and inquiries as to persons, performed this task and read proof. Mrs. George M. Eckels of Washington, D. C., versed in journalism, gave freely of her time to collaborate with me in editing the footnotes.

Part II, the Extension of the History, from 1882 to 1922, the year of Mrs. MacLean's death, has been prepared as a work of love in my leisure hours. The sources have been in part my reading of the annual reports of the town and my personal knowledge as a Great Barrington boy, combined with living tradition. But the invaluable source has been abstracts from the files of *The Berkshire Courier* and *The Berkshire News* made by Miss Sarah Dewey. The

officers of various organizations have also contributed articles about their societies whose names are mentioned in the footnotes. The keen interest and accurate stenographic work of Mrs. Elizabeth H. Jerome of Washington, D. C., must also be mentioned. Maitland P. Foster and his staff have done excellent work in the printing of the volume. To all persons mentioned I am indebted and thankful. I beg indulgence for errors and omissions.

My fellow-townsmen, I know, have still the spirit of Viscount Barrington, after whom the town is named, when he made the historic answer: "I would follow no man when he went wrong—not even the king."

G. E. M.

Washington, D. C., April 30, 1928.

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PREFACE

This volume of Great Barrington History is the result of researches begun long ago, and continued at intervals of leisure through many years. These researches were undertaken, not with the original intention of gathering material for a town history, but for the gratification of my own personal tastes. My interest in the matter was heightened in searching the records of land titles and ancient boundary lines, for business purposes, and the desire to know more of the town and its early dwellers was thereby increased. In process of years, notes, memoranda, and old manuscripts accumulated to such an extent as to appear to me worthy of preservation; and these were, eventually, written out in some form of historic order. I then concluded to follow my examinations with greater thoroughness and to write, in part at least, the history of the town, which I did, as leisure permitted, and arranged my gatherings in chapters.

The work had thus far progressed, when Clark W. Bryan, having purchased *The Berkshire Courier*, applied for permission to print, in that journal, what had then been written, and accordingly did print, in short weekly articles, most of the matter which was then prepared. The publications in *The Courier*, beginning on the first day of January, 1879, extended over a period of fourteen months.

For the purpose of encouraging the publication of the History in book form, the town, at its adjourned annual meeting, April 2d, 1881, on the motion of Merritt I. Wheeler, Esq., voted: "That a committee of three be appointed and authorized to procure the writing and publishing, for the use of the town, fifty copies of a Town History, and that a sum not exceeding seven hundred and fifty dollars be raised and appropriated for that purpose;" and

Clark W. Bryan, J. Milton Mackie and Justin Dewey were appointed as such committee. This action of the town was taken under an article in the warrant, inserted without consultation with or the previous knowledge of the writer. I then revised and corrected that portion of the History which had been printed, and added to it much new material. The result is this publication.

In the preparation of the History, I have made examination—more or less extended—of the town records of Great Barrington and Sheffield; the proprietary records of the Upper and Lower Housatonic Townships; the records of the registries of deeds at Great Barrington, Pittsfield and Springfield; the records of the county and probate courts at Pittsfield; and the records and archives in the office of the secretary of state at Boston. Much material has been gathered from ancient manuscripts and books of accounts in my own possession or which have been furnished me by my townsmen. I have also received valuable assistance from others, to all of whom I wish here to express my thanks. I am particularly obliged to Isaac Seeley, Esq., town clerk and register of deeds, for many acts of courtesy in facilitating the examination of the records in his office; to Merritt I. Wheeler, Esq., for the manuscripts and account books of his grandfather, Capt. Truman Wheeler, the town treasurer and muster master in the Revolutionary period; and to Mrs. Caleb B. Culver, for a copy of the diary of Rev. Samuel Hopkins. From Henry W. Taft, Esq., of Pittsfield, I have received many kind attentions, copies of records, and of interesting papers from the files of the county court. Henry Holland, Esq., of Westfield, has assisted with much genealogical information of the early settlers from that town; and Isaac Huntting, Esq., of Pine Plains, N. Y., has contributed many items of Indian lore and history. The Rev. George Mure Smith, formerly of Lenox, now of Edinburgh, Scotland, has rendered valuable aid in notes gathered at the offices of the secretary of state, both in Boston and Albany. Frank L. Pope, Esq., of Elizabeth, N. J., a native of Great Barrington, has taken a

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great interest in the preparation of this history, and has rendered very material assistance by furnishing abstracts from the state archives and from rare publications, but above all in compiling and drawing, from data gathered by himself, the map which accompanies this work. In the map, the ancient boundary lines of the Upper and Lower Townships and of the Indian Town are delineated from original plats and from the records of early surveys; the geographical features are from Walling's map of the state; the old roads laid down and some of the town lines are from a very well executed, though long forgotten, map of Great Barrington, made by David Fairchild in 1794, which Mr. Pope discovered in the office of the secretary of state.

C. J. T.

Great Barrington, March, 1882.

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Hudson a short distance below Albany; and this locality corresponds with the foot-note quoted, as this fordway was afterwards in quite the "upper part of Shellield," as that town was, originally, incorporated. We are strongly inclined to the belief that Talcot's encounter occurred at the spot we have indicated, though it matters little whether it took place here or ten miles below, in the edge of Connecticut, and we have only introduced it here as the first well authenticated historical event of this part of the Housatonic Valley.

In the Patent of Westenhook, 1685, as in other New York documents of a little earlier date, the river is called "Westenhook"—the Dutch name—which, (as is also our Housatonic) is an apparent corruption of the commonly accepted Indian name of the river—"Hooestennuc"—"the river beyond the mountains." By both Indians and whites, the river was designated by different names in the different sections through which it passed, names which applied appropriately to adjacent territory. Thus it was called by the Dutch Westenhook (sometimes written Westenhock, Westenook, and Westennuc) the name which they gave to the tract of country afterwards the Westenhook Patent; in Massachusetts, by the Indians Hooestennuc, the title by which their settlement in Great Barrington was known; in Connecticut, Wyantenock, the name of a large tract of country in the vicinity of New Milford; and near its mouth it was known as the "Stratford" river, from the first established town upon its borders.

The earliest *particular mention* of this river, which we have met with amongst Massachusetts authorities is found in the journal of Rev. Benjamin Wadsworth, a minister of Boston, afterwards President of Harvard College, who, in 1694, accompanied the Commissioners of Massachusetts and Connecticut to attend a treaty held at Albany between Commissioners of Massachusetts, Connecticut, Rhode Island, New York and New Jersey and the Five Nations of Indians.[1] The party travelled from Boston to Albany, on horseback, with a guard of sixty dragoons commanded by Capt. Wadsworth of Hartford. They left Boston August 6th, and arrived at Westfield August 9th.

Mr. Wadsworth says: "We set out from thence (Westfield) towards Albany the nearest way thro' ye woods;"

[1] This Journal is printed in Collections of the Massachusetts Historical Society, Vol. I, 4th series.

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They travelled about 24 or 25 miles and encamped. "Ye road which we travelled this day was very woody, rocky, mountainous, swampy; extreme bad riding it was. I never yet saw so bad travelling as this was. We took up our quarters, this night, by ye side of a river, about a quarter-past 5." (Probably the Farmington River in Otis.) August 10th, travelled about 25 miles "and took up our lodgings, about sundown, in ye woods, at a place called *Ousetonuck formerly inhabited by Indians.* Thro' this place runs a very curious river, the same (which some say) runs thro' Stradford: and it has on each side some parcels of pleasant, fertile intervale land." "Ye greatest part of our road this day was a hideous, howling wilderness; some part of ye road was not so extream bad." August 11, we set forward about sunrise, and came, ye foremost of us, to Kinderhook about 3 of ye clock." They continued to Albany, and, returning, took their route towards Hartford, by Kinderhook, Claverack, Taghkanick, Kent and Woodbury, Ct. Leaving "Turconnick," they rode twelve or fourteen miles, "on our left a hideous high mountain." About noon they came to Ten Mile river, "called so from its distance from Wyantenuck, runs into Wyantenuck, by ye side of which we rode, I believe, six or seven miles and passed ye same a little after sundown." *"Wyantenuck river is ye same yt passeth thro' Ousetonnuck; it is Stratford river also."*

It is probable that Mr. Wadsworth and his party, following the Indian trail from Westfield to Kinderhook, crossed the Housatonic at the fordway by the "Great Wigwam" in the village of Great Barrington, and in that view, this abstract from his journal is valuable as furnishing corroborative evidence of the truth of the tradition that an Indian settlement had once existed near that fordway. This settlement had, then, in 1694, been abandoned, and it probably had not, to much extent, been inhabited since the time of King Phillip's war, eighteen years earlier. The river, then, was called by the Dutch of New York, Westenhook; in Massachusetts, Ousetonnuc, or Housatunnuk in various styles of orthography;[1] in the northern part of Connecticut Wyantenock, and below tide-water the Stratford river.

[1] J. Hammond Trumbull in his recently published "Indian Names in Connecticut," writes as follows:

"Housaton'uc mod. Housatonic river.

"The termination of this name shows that, originally, it did not

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THE

PUBLIC RECORDS

OF THE

COLONY OF CONNECTICUT,

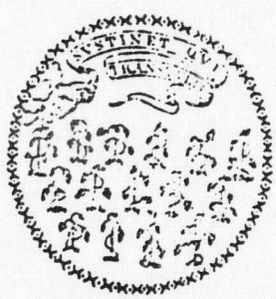
MAY, 1678—JUNE, 1689;

WITH NOTES AND AN APPENDIX

COMPRISING SUCH DOCUMENTS FROM THE STATE ARCHIVES, AND OTHER SOURCES, AS ILLUSTRATE THE HISTORY OF THE COLONY DURING

THE ADMINISTRATION OF SIR EDMUND ANDROS:

TRANSCRIBED AND EDITED, IN ACCORDANCE WITH A RESOLUTION OF THE GENERAL ASSEMBLY,



BY J. HAMMOND TRUMBULL.

HARTFORD:
PRESS OF CASE, LOCKWOOD & CO.
1859.

At a General Assembly of the State of Connecticut, holden at Hartford, in said State, on the first Wednesday of May, A. D. 1853:

Resolved by this Assembly, That the Secretary of State be authorized to purchase for the use of the State, two hundred and fifty copies of the proposed publication of the Public Records of the Colony of Connecticut, from 1677 to 1689, transcribed and edited (in continuation of the volumes heretofore published) by J. Hammond Trumbull, Esq., including a selection from such documents, in the state archives, as illustrate the history of the colony during the usurpation of Sir Edmund Andros. *Provided*, that such publication shall be made with the approval and under the supervision of the Secretary of State, and authenticated by his official certificate, as a true copy of the original record; *and provided also*, that the expense of the same shall not exceed two dollars and fifty cents per copy.

Resolved, That the copies so purchased be distributed by the secretary, as follows: one copy to the town clerk of each town in this state, to be preserved in his office for the use of the town; one copy to the governor and each of the state officers of this state; one copy to the governor of each of the several states and territories of the United States; one copy to the library of Congress; one copy to the Smithsonian Institute; one copy to each of the colleges of this state; twenty-five copies to M. Alexandre Vattemare, for international exchange; and the remainder of said two hundred and fifty copies to be deposited in the office of the secretary of state, subject to the disposal of the General Assembly.

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INTRODUCTORY NOTE.

THIS volume contains the proceedings of the General Court from the election in May, 1678, to the close of the special session called in June, 1689, to proclaim the accession of William and Mary to the throne of England. By the resolve which authorized this publication the editor was instructed to include "a selection from such documents, in the State archives, as illustrate the history of the colony during the usurpation of Sir Edmund Andros." The space thus occupied may, at first sight, seem disproportionately large; but it must be considered, that it was in no other way possible to fill the break in the records, occasioned by the suspension of charter government from October, 1687, to May, 1689. For two or three years immediately preceding that period, the proceedings of the General Court afford little insight into the course of events in the colony. Circumstances had imposed the necessity of the utmost caution. Those subjects which most nearly concerned the welfare of the colony and which may be supposed to have almost exclusively engrossed the attention of the court, are rarely mentioned in the records. The omission ceases to be remarkable, when it is remembered that every page was written in the expectation that it might soon be subjected to the scrutiny of an arbitrary governor, or be made the basis of new 'articles of misdemeanor' by Randolph or his co-workers. It was more prudent to leave even the reasons for the annual fast or thanksgiving 'upon the file,' than to record them in full, for possible occasions of offence to Governor Dongan, a papist, or Sir Edmund Andros, a high tory and high churchman.

With what degree of success the deficiencies of the records have been supplied will be best determined by an examination of the volume itself. No pains have been spared to present a documentary history of the period referred to, as complete as possible. To effect this, every document which is preserved in the Connecticut archives has been carefully examined, and either printed in full or a sufficient abstract given. In addition to this, much valuable material has been gathered from other sources. The Laws enacted for New England, by Andros and the council, are now for the first time printed, from a copy fortunately discovered in the library of Yale College. Gershom Bulkeley's curious narrative, entitled "Will and Doom," &c., has

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supplied some interesting particulars of the opening and closing scenes of the administration of Andros in Connecticut, which are not to be found elsewhere. The volumes of "Usurpation" Papers, in the Secretary's office at Boston have been examined in detail, and all needful copies or extracts made therefrom. The invaluable collection of "Documents relating to the Colonial History of New York," procured through the agency of Mr. Brodhead from the State Paper Office in London, has contributed copies of several important papers. The articles of misdemeanor, exhibited by Randolph against the colony, and the letter from the governor and council to the Earl of Sunderland which was construed as a surrender of the charter,—both of which are indispensable to a connected history of the period,—are reprinted from Chalmers' Political Annals.

At the end of the Appendix, are printed such portions of the Records of the Commissioners of the United Colonies as are not comprised in Mr. Hazard's publication.

The Colony Records for the entire period comprised in this volume are in the hand writing of the secretary, John Allyn. In transcribing them, the same liberties have been taken, with punctuation, in the disuse of capital letters, and the rejection of the short &, as in the earlier volumes. In other respects, the peculiarities of the original records have been closely followed.

Repetitions are printed in italics. Omissions are indicated by a caret, or by the conjectural restoration of the missing words *in italics, within brackets*. Words in brackets, in ordinary type, offer conjectural readings, where portions of the original are mutilated or defaced, or mark corrections of the text by collation with the original document from which the record was made.

Two or three orders and public acts which Mr. Allyn omitted to record, have been restored to their places, on the authority of contemporary and authorized copies: but such additions to the record have, in each instance, been noted, and so printed as to distinguish them from the record itself.

The editor's acknowledgments are due to the friends whose assistance, from time to time, has lightened his labors in the preparation of this volume, and particularly to the officers of Yale College, for permission to make use of a manuscript record of the laws made by Sir Edmund Andros, and to George Brinley, Esq., of Hartford, for the privilege of consulting his excellent library and for repeated loans of rare historical tracts and works of reference. J. H. T.

SECRETARY'S OFFICE, HARTFORD,
March 24th, 1859.

From the Councill Chamber att Whitehall, this first day of August, 1679.

Your very loving friends,
ARLINGTON
ESSEX
FAVCONBERG
H. COVENTRY
J. ERNLE.
Wm Blathwayt.

To the Governr of His Matie's Corporacon of Conecticutt in New England.

No. XXIX.

[For. Corr. I. 18.]

HEADS OF INQUIRY TO BEE SENT TO THE GOVERNOR OF HIS MAJESTIE'S COLONY OF CONECTICUTT IN NEW ENGLAND.

1. What Councills, Assemblies and Courts of Judicature are within your Corporation, and of what nature and kind?
2. What Courts of Judicature relating to the Admiralty?
3. Where the Legislative and Executive Powers of the Government are seated?
4. What Statutes, Laws and Ordinances are now made and in force?
5. What number of Horse or Foot are within your Government, whether they bee Trained Bands or Standing Forces; how they are armed, divided, and exercised?
6. What Castles and Forts are within your Corporation, and how situated and fortified; as also what Stores and Provisions they are furnished withall?
7. What number of Privateers or Pyratts do frequent your Coast; what their burthens are; the number of their men, and guns; and the names of the Commanders?
8. What is the strength of your bordering Neighbours, whether Indians, or of any other Nation, by sea and land; and what is the state and condition of their Trade and Commerce?
9. What correspondency do you keep with your Neighbours?
10. What are the Boundaries, Longitude, Latitude, and Contents of Land within your Government; and what number of Acres patented, settled or unsettled; and how much is manurable land?
11. What are the principall Townes and places of Trade:

and what manner of Buildings are most used in your Corporation, as to the strength and largenesse of them?

12. How many Parishes, Precincts, or Divisions, are within your Government?

13. What Rivers, Harbors and Roads are within your Corporation: and of what depths and soundings they are?

14. What Comodities are there of the production, growth and manufacture of your government, and of what value yearly, either exported or consumed upon the place; and what materials are there already growing, or may bee produced for Shipping: as also, what are the commodities imported, and of what value yearly?

15. Whether Salt-peter is or may be produced within your Corporation: and if so, in what quantities, and att what rates it may bee delivered in England?

16. What number of Merchants and Planters, English or Foreigners, Servants and Slaves; and how many of them are men able to bear Armes?

17. What number of English, Scotch, Irish or Forreigners have (for these seaven yeares last past, or any other space of time) come yearly to plant and inhabit within your Corporation. And also, what Blacks and Slaves have been brought in within the said time, and att what rates?

18. What number of Whites, Blacks or Mulattos have been born and christened, for these seaven yeares last past, or any other space of time, for as many yeares as you are able to stato an account of?

19. What number of Marriages, for seaven yeares last past, or any other time, for as many yeares as you are able to state an account of?

20. What number of people have yearly dyed within your Government, for seaven yeares past or any other time, for as many yeares as you are able to stato an account of?

21. What estimate can you make touching the Estates of the severall degrees of Merchants and Planters within your Corporation? And how you may compute the wealth of y^e Corporation in generall?

22. What number of Shipps, Sloops or other Vessells do trade yearly to and from your Government, and of what built and barthen; and whether there bee any belonging to the Country?

23. What obstructions do you find to the improvement of the trade and navigation of your Corporation?

24. What advantages and improvements do you observe, that may bee gained to your trade and navigation?

25. What Rates and Duties are charged and payable upon

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any goods exported out of your Government, whether of your own growth or manufacture or otherwise, as also upon goods imported? And likewise what other Revenue doth or may arrise within your Corporation, and how the same are applyed &c.?

26. What persuasion in Religious matters is most prevalent; and among the varieties, which you are to expresse, what proportion in number and qualitie of people, the one holds to the other?

27. What course is taken for the Instructing of the people in the Christian Religion? How many Churches and Ministers are there within your Government, and how many are yett wanting for the accomodation of your Corporation? What provision is there made for their maintenance; as also for relieving poor, decayed and impotent persons; and whether you have any Beggars or idle Vagabonds?

By command of the Right Hon^ble^ The Lords of His Matie^s^ Most Hon^ble^ Privy Councill appoynted a Committee for Trade and Forrein Plantations,

WM. BLATHWAYT.

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No. XXX.

ANSWERS TO THE QUERIES, &C.

[The original draft (by Sec. Allyn) is in For. Corr. I. 19; recorded, in the volume of "Copies and Letters," pp. 38-43.]

1. *Answ.* (1.) We have yearly two Generall Courts, according as they are stated in his Matie^s^ gracious charter granted to this Colony.

(2.) We have two Courts of Assistants, which consist of the Gov^r^ and six Assist^s^, which are for the tryall of capitall offenders and for the hearing of all appeales, with a Jury.

(3.) Our Colony is divided into four countys, and in each county there are two county courts annually, consisting of magistrates with a jury, to hear and determine all actions of debts, slander, and of the case, and criminall matters of lesser nature.

(4.) As there is any speciall occasion, the Gov^r^ calls his Assistants, who are his councill, to meet and consider of such matters as fall in, in the intervall of the Gen^ll^ Courts, and to order and determine the same.

2. *Answ.* We have litle traffique abroad and small occassion for such a court, and so have not considered or stated

any such court at p^rsent, distinct from the rest; but it is left w^th y^e Court of Assist^ts.

3. *Ansr.* The Legislative is onely in the Gen^ll Court, and the Executive in those appoynted courts as before.

4. *Ansr.* We have herewith sent you one of our Law Bookes, wherein are what lawes were in force when we printed them: since which some few orders have been made, but are not yet printed, and so have not sent them. Your Lordshipps may please to take notice that in our preface to o^r lawes we say we have been carefull not to make any repugnant to the statute laws of England, so far as we understood y^m, professing o^rselves alwayes ready and willing to receive light for emendation or alteration as we may have opportunety. What we then sayd is o^r present purpose, and shall be our practice, as occasion requires.

5. *Ansr.* For present we have but one Troope setled, which consist of about sixty horss; yet we are upon raysing three Troopes more, one in each county, of about 40 horss in each Troope. Our other forces are Trained Bands. There is a Major in each county, whoe commands the militia of that county, vnder the Gov^r for the time being, whoe is the Generall of all the forces w^thin our Colony. The whole amount to 2507. The names of our severall countyes are

Hartford county, where are about 835 Trained soldiers.
N. Haven county, where are about 623 Trained soldiers.
N. London county, where are about 509 Trained soldiers.
Fayrefeild county, where are about 540 Trained soldiers.

Totall, 2507.

Our horsemen are armed w^th pistolls and carbines. The foot souldiers with muskett and pike. For the p^rsent, in o^r late warrs w^th the Indians, we found dragoones to be most usefull, and therefore improved about 300 of them in the service, to good successe.

6. *Ansr.* We have one smale Forte within our colony, which is at the mouth of Conecticot River, at a place called Saybrooke [*where our fortifications are not over strong, though considerable*]*: and o^r stores of provission are but slender, we haveing townes about it that can convay provission to it upon all occasions. Other good harbours we have, and one especially at a towne called New London, formerly called Pequot, neer which the English of Conecticott obtayned a memorable victory over the Pequots, the first and most fatal blow the

* These words are crossed out from the original draft.

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Indians received from the English in N. E. till the late warr in '75 and '76. The harbour lyeth about a league up the river, where the towne is. Ships of great burthen may com up to the town and lye secure in any winds; where is great need of fortification, but we want estate to make fortification and purchass artilery for it, and we should thankfully acknowledg the favour of any good benefactor that would contribut towards the doeing of something towards so good a worke.

7. *Answ.* It is rare that ever there comes any here on these dangerous coasts, only about two years agoe there came a French Captaine called Lamoine,* wth 3 ships, one of which wintered at New London, and in ye spring went off to sea; [*and one of them he carryed to Yorke: the other was sunk at Yorke.*]†

8. *Answ.* As for our Indian neighbours in this Colony, we compute them to be about 500 fighting men. As for our neighbours of Yorke, Massachusetts and Plimouth, we suppose they are to answer the same Questions, and know better what their strength and the number of the Natives is amongst them. As to the French, we are strangers to them, and know nothing of their strength or commerce.

Our cheif Trade, for procuring of cloathing, is by sending what provissions we rays to Boston, where we buy goods with it, to cloath vs.

The trade wth the Indians in this Colony is worth nothing, for by reason of warrs they have wth other remote Indians they get litle pelfry.

9. *Answ.* We have neighbrly correspondence wth N. Plimouth, [*indifferent wth*] ye Massachusetts, and, since Sr Edm. Andross is come to Yorke, or correspondency wth him is not like what it was with his predecessors in that government [*by reason of his demands he makes upon o' limits and ill titles he lays upon us*].† As for Rhod Island, we have not so good correspondence with them as we desire.

10. *Answ.* Our Boundaries are expressed in our Charter. As to the number of acres setled or unsetled, or how much is manureable, we cannot guess; the country being a mountainous country, full of rocks, swamps, hills and vales. Most that is fitt for planting is taken up. What remaynes must be subdued, and gained out of the fire as it were, by hard blowes and for smal recompence.

* "About fifteene yeares ago," wrote Edw. Randolph to the Lords of the Committee, in May, 1689, "Captain l'Moin a Frenchman brought in two or three very rich Dutch prizes worth above one hundred thousand pounds. Mr. Richard Wharton one of the Agents soliciting for the Charter, (if in England) was L'Moine Attorney. He was a great undertaker for pyrats and protector of irregular trade." Doc. Rel. to Hist. of N. York, III. 582.

† Crossed out from the original draft.

11. Our principle Townes are Hartford, vpon Conecticutt river; New London, upon Pequot river; New Haven, and Fayrefeild, by the sea side: in which townes is managed the principall trade of the colony. Our Buildings are generally of wood; some there are of stone and brick: many of them of good strength and comelynesse, for a wilderness, both those of wood, stone and brick: [*many 40 foot long and 20 foot broad, and some larger; three and four stories high.*]*

12. *Ansr.* We have 26 small Townes all ready setled in or colony, and in one of them we have two churches.

13. *Ansr.* Betweene ye Naraganset River, or east bound, and Mamaronock Rivulet, or western bound, are these Rivers following:

(1) The River of Conecticott, at the entrance of which there is but about 10 or 12 foot at high water. Vessells of fifty or sixty, sometimes 80 tun, will goe up sixty mile in that river, to the town of Hartford; but by reason of flats and falls they canot goe above six mile beyond Hartford.

(2) New London or Pequot River, wher a ship of 500 tunn may go up to the Towne, and com so near the shore that they may toss a biskit ashoare: and vessells of about 30 tunn may pass up about 12 mile above N. London, to or neer a town called Norwich.

(3) At New Haven and Fayrefeild, ships of three hundred tunns or bigger may come in to ye harboures.

(4) At Guilford, Milford, Norwalk, Stratford, Standford, Ry, vessells of about 30 or 40 tun may come in; and they are pretty good tide harbours.

14. *Ansr.* The Commodities of the country are Wheat, Peas, Ry, Barly Indian Corn, and Porck, Beif, Woole, Hemp, Flax, Cyder, Perry, and Tarr, deal boards, Pipe Staves, Horses; but to say the yearly value of what is exported, or spent upon the place, we cannot. The most is transported to Boston, and there bartered for cloathing. Some small quantities directly sent to Barbadoes, Jamaicah, and other Caribia Islands, and there bartered for suger, cotton wool and rumme, and some money; and now and then, rarely, some vessells are laden with Staves, Pease, Porck, and Flower, to Maderah and Fyall, and there barter their comodities for Wine. We have no need of Virginia tr[illegible] most people planting so much Tabacco as they spend. [illegible]heat haveing been much blasted and of pease spoyl[illegible]n wormes for sundry years past, abates much of or trade.

* Crossed out.

Exhibit 30

(2) For the materialls for Shipping, here is good Timber of Oak, Pine and Spruce for masts, oake boards and pine boards, and tarr and pitch, and hemp. [*Some sayle cloth is allready made in these parts, but no great quantity.*]*

(3) The value of the comodities imported yearly we cannot compute, but possibly it is 8 or 9000li.

15. *Answ.* We have no Salt Peter rayse in or Colony, neither doe we know how to rays it or whether here be the materialls that will make it.

16. *Answ.* In or Colony there are about 20 petty merchants. Some trade only to Boston, som to Boston and the Indies, other to Boston and New York, others to Boston, the Indias and Newfoundland.

As for forrain merchants, few, and very seldom, trade hither.

As to the number of planters, they are included in or Train Bands, all from 16 to 60 being to beare armes.

There are but fewe servants amongst us, and less slaves, not above 30, as we judge, in the Colony.

17. *Answ.* For English, Scotts and Irish, there are so few come in that we cannot give a certain accot. Som yeares come none; somtimes, a famaly or two, in a year. And for Blacks, there comes sometimes 3 or 4 in a year from Barbadoes; and they are sold usually at the rate of 22li a peice, sometimes more and sometimes less, according as men can agree with the master of vessells, or merchants that bring them hither.

18. *Answ.* We can give no accot of the perfect number of either born; but fewe blacks; and but two blacks christened, as we know of.

19. *Answ.* We can give no perfect accot of it.

20. *Answ.* This we cannot give accot of; but as to the increase, take as followeth:

In the year 71, our numbers of men were	2050
In the year 76, our numbers of men were	2303
In the year 77, our numbers of men were	2365
In the year 78, our numbers were	2490
In the year 79, our numbers were	2507

21. *Answ.* As to the Estates of the merchants, we can make no guess of them: but as for the estates of the Corporation in generall, it doth amount to 110785li. Houses are

* Crossed out.

so chargeable to maintaine, that they are not valued in the above mentioned summ.

22. *Answ.* It is rare any Vessells come to trade with us, but what come from Massachusets Colony or N. Yorke; but sundry of their vessells doe come and transport o^r^ provission for o^r^ merchants to Boston.

Our own vessells are as followeth:

In Staidford, 1 Pinck of 80 tunn & 1 Sloope of ten tunn.
In Stratford, 1 Sloop, 12 tunn.
In Milford, 1 Pinck, 80 tunn; 1 Bark, 12 tunn; 1 Ketch, 50 tunn.
In N. Haven, 1 Pinck, 60 tunn; 1 Sloop, 30 tunn; 1 Ketch, 24 tunns; 1 Sloop, 12 tunn; and 1 Sloop, 8 tunn.
In Brandford, 1 Barque, 30 tunns.
In Kenilworth, 2 Sloops, one 18 tunn, one 14 tunns.
In Saybrook, 2 small Sloopes.
In Midleton, 1 Ship, 70 tunn.
In Hartford, 1 Ship, 90 tunn.
In Lime, 1 Ketch, 70 tunn.
In N. London, 2 Ships, 1 70 tunn, 1 90 tunns; 3 Ketches about 50 tunns apeice; & 2 Sloopes, 15 tunn apeice.
In Stonenington, 1 Sloop, tenn tunn.

23. *Answ.* The want of men of estates to venture abroad, and of money at home for the management of trade, and labour being so deare with us.

24. *Answ.* If so be Hartford, New London, New Haven and Fayrefeild might be made free ports for 20 or 15 yeares, it would be a meanes to bring trade there, and much increase the navigation, trade and wealth of this poore colony.

25. *Answ.* We take no dutys of goods exported out of o^r^ goverment nor of any goods imported, except on wine and liq^rs^, which is inconsiderable and improved towards the maintenance of free schooles.

26. *Answ.* Our people in this Colony are, some strict Congregationall men, others more large Congregationall men, and some moderate Presbeterians; and take the Congregationall men of both sorts, they are the greatest part of people in the Colony.

There are 4 or 5 Seven-day men, in o^r^ Colony, and about so many more Quakers.

27. *Answ.* (1) Great care is taken for the instruction of y^e^ people in the X^tian^ religion, by ministers' cattechizing of them and preaching to them twice every Sabboth dayes and

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Exhibit 31

HAMPDEN COUNTY

1636 - - - - 1936

By

CLIFTON JOHNSON

Historian and Author

FEB 20 1945

VOLUME I

THE AMERICAN HISTORICAL SOCIETY, INC.
NEW YORK
1936

Exhibit 31

CHAPTER XV

In Field and Forest

The floating of timber down the Connecticut River did not begin until after peace with the Indians in 1726. The first notice found of floating states that several persons assembled on the bank of the river, August 31, to see twenty-five masts float down Enfield Falls, and that one struck a rock, which turned it from its course in a manner that killed a boy of Windsor. A company was formed, about 1730, of several men who belonged in Suffield, Westfield and Deerfield, for the purpose of cutting and floating down the river white pine logs suitable for masts, booms, yards and bowsprits, for the British Navy, in accord with an agreement approved by the King's contractor in Boston. By October, 1733, they had gotten to New London a shipload of timber, and they had in the woods, seventy miles above Fort Dummer, a considerable number of men preparing another shipload. Two logs that lodged on the river bank at Saybrook were three feet in diameter at the large end and eighty feet in length.

After the conquest of Canada and the settlement of towns far up the river, great numbers of logs were floated down in freshets, and many lodged on the lowlands in various towns. After the Revolution, pine trees were cut and sent to market without restriction. When there was a big freshet a great number of logs and trees lodged on the flats of Hampshire. It is said that in the high flood of 1801 a man could walk one hundred rods on logs in Northampton meadow. In some places they were heaped up one above another, and there were amazing piles in many of the coves. When the freshet was not high, the river sometimes was so full of logs that it seemed as if a person could walk on logs across the stream. Some of the logs on the meadows were drawn to the river in the spring, and others in the fall. The owners of the land were entitled to compensation from the owners of the timber for any damage incurred. Some of the logs were

A COUNTRY MOUNTAIN IN DISTANCE

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VERMONT

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BELLOWS FALLS, SAXTONS RIVER, ROCKINGHAM,
CAMBRIDGEPORT AND BARTONSVILLE

1753-1907

WITH

FAMILY GENEALOGIES

By LYMAN SIMPSON HAYES

PUBLISHED BY THE TOWN
BELLOWS FALLS, VERMONT
1907

Ex H,61,1 32

seventeen feet. Very substantial and expensive head gates were built with steam power for raising and lowering them. A new dam was built higher than the old one, and many other changes made, the whole amount expended on improvements at about that time reaching the generous figure of $300,000.

The present officers and active managers are Richard S. Russell (son of Hon. William A. Russell), president; James H. Williams, clerk and treasurer, and Leland J. Royce, superintendent.

The company has sold mill sites enough to fully use the power afforded by the river, at its minimum capacity, and to these purchasers the company lease the water privileges at an annual rental per "mill power" of eighty-five horse power each. The International Paper company rent one hundred and thirty-five mill-powers, and the smaller mills lesser amounts. The aggregate number of the mill-powers at this time is one hundred and sixty three, making a total of 13,8[illegible] horse-power now utilized here.

CHAPTER XX.

NAVIGATION OF THE CONNECTICUT

The era of river transportation, which extended from the close of the Revolution to a few years after the completion of the railroads through the Connecticut valley, or until about 1858, is one of deep interest, and the details of boating have always had a fascination to the dwellers of the valley that has steadily increased as its day has receded into the obscurity of distant years. Not many are now living who remember the methods of boating or rafting, as carried on in those days, and when such an one is found he is always sure of attracting an interested audience as he rehearses the stories of the days when the boatmen were as important personages as were ever the old stage drivers, or the early railroad conductors.

There is record of the floating of logs down the river to be used for masts in the English navy as early as 1732. A few rafts of boards were made up and passed down the river from below Bellows Falls as early as 1735, but not many until the close of the French and Indian war in 1763.

The earliest navigators were the Indians, who with their bark canoes, or dug-outs, passed up and down upon their warlike and murderous excursions, either upon other tribes or upon the early settlers.

The first settlers in the Connecticut river valley, and points reached from this valley in all the northern country, came up the river with their families and scanty supply of household and farming utensils in the primitive boats then used.

In later years when the venturesome white man had settled along the banks in large numbers and the question of transportation to and from the markets of Springfield and Hartford had become a perplexing problem, larger flat boats came into use, built and run between the different important

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It is likely that the following published story appeared in the New Haven (Connecticut) Register sometime in 1951 or 1952.

Leland Stowe's Father Reminisces About The Valley

Editor's Note. Frank P. Stowe of 20 Sodom Lane, Derby, who wrote the accompanying story, is the father of the noted journalist, Leland Stowe. During the recent Register essay contest many high school students called Mr. Stowe to ask about his son's Naugatuck Valley boyhood and the elder Mr. Stowe's reminiscences led to him writing this story about the Old Housatonic River Valley.

The writer and an older brother and sister, were brought to Connecticut from their birthplace in Dover Plains, N. Y., by their parents in 1872 or 1873 when he was between two and three years old. Our family settled in the town of Southbury near the valley of the Housatonic River, so for nearly 80 years I have been intimately acquainted with that interesting and picturesque section of Connecticut.

Many changes have occurred during the past three quarters of a century along that old river valley. Today Lake Zoar has taken the place of the restless river with its murmuring and singing music as it journeyed on its way to Long Island Sound. In fancy I can still hear the restless water rippling over its stony river bed.

Two Points

As one faced down the river there were two prominent points of land rising above its winding stream. On the right, located in the town of Newton, was Poor Bonney while in Oxford, on the left bank, was Finney Cock. In the morning the sun came up over Finney Cock and disappeared behind Poor Bonney at night.

Now the state of Connecticut owns 700 acres of land on the west bank of Lake Zoar and some 400 acres on the east shore. In time no doubt these tracts will be developed into beautiful parks.

Back in the old days, one of the exciting and interesting events for people living along the Housatonic River Valley was the "Breaking up of the river ice" which usually occurred in late January.

The river was made up of falls, eddies and long stretches of still water. Ice would form in the still water sometimes in a real cold Winter to the depth of eighteen inches. When the January thaw came there would be a freshet. Huge cakes of ice would be forced into and over the river road sometimes being piled ten or twelve feet high. It costs the towns of Southbury and Oxford large sums of money to cut a way through the blocks of ice so that the people living "up the river" could get through to Derby to do their weekly trading. Just below Otter Rock was one place where the ice would always be piled high all over the road.

One instance stands out among my boyhood memories. My father, mother, two other women and I were watching the ice break up at a point between Bennett's Bridge and the old Zoar Bridge. Suddenly we were caught with water all around us and my father had to give three women in turn a "pick pack" ride to safety. The experience was apparently enjoyed by all concerned.

As a boy and a man I have paddled a canoe on the old river, rowed a row boat, propelled a motor boat, and since the Stevenson Dam was built have driven an automobile about three miles over ice formed on Lake Zoar. But the greatest thrill of all came in the late 1880's when I rode a raft down the river in Spring freshet time.

Picture a lad of 17 standing on the front end of a raft made of chestnut logs joined together with birch binders and fastened with wooden pins. The raft was loaded either with hewn ties for the rail road, or with cord wood. As the raft plunged into the swift water the thrill that came to the boy who was guiding it was out of this world. Besides I was being paid two dollars a day at a period when the regular daily wage was one dollar or a dollar and a quarter a day.

Although there was a certain amount of danger in running the rafts I never knew of a fatal accident. However my father had a narrow escape once. The so called pilot who was supposed to know all the danger spots ran the raft into the pier of an old bridge just above Otter Rock. The bridge had been abandoned when the suspension bridge was built at Zoar Bridge. Fortunately the raft did not break and my father and his companions were taken off in a row boat.

Went Aground

Once when riding a raft with an uncle we went aground near Gales Island which was located between the old Lee and Henderyx' places. There were no serious results, just a good wetting on a cold, windy March day.

The water rose rapidly and fell fast so it required good judgement on the part of those in charge of running a raft in order to avoid trouble. Sometimes two rafts would be run in a day. It was cheap transportation when everything went O. K.

When a middle aged man I had another interesting experience along the old river which as far as I have been able to learn has never been duplicated by anyone else. I was in charge of a saw mill crew which took more than a half million feet of logs and telegraph poles out of Great Quarter on the West bank of the river. We strung booms across the river and poled logs to the east bank. There they were removed from the water with a hoisting engine which placed them on the saw mill skidway to be sawed into lumber and railroad ties.

People living along New Haven Avenue in Derby and Derby Avenue in Orange may be interested to know that less than 100 years ago large flocks of turkeys were driven from New Milford down the Housatonic River Valley to Derby and on into New Haven. As the sun went down the turkeys found a resting place in the trees along the roadside and roosted there until morning when their owners continued the journey to market.

At a point where the New Haven reservoir, Maltby Lake now is, the turkey drivers would have to halt and pay toll at a toll gate located there for the purpose of collecting funds toward the upkeep of the highway. One could also buy a cup of homemade root beer at the toll house for three cents. Empty beer cans and whiskey bottles which contribute largely to the appalling number of fatal accidents

Toll Bridges

To return to the section around Stevenson. In my boyhood there were two toll bridges on the lower Housatonic River. One was Bennett's Bridge in Southbury and the other was Zoar Bridge which spanned the river from Oxford on the east bank to Monroe on the west shore of the Housatonic.

I can remember both of these bridges being destroyed and rebuilt. Bennett's Bridge went out in a water freshet and Zoar Bridge was buntted to pieces one year by the breaking up of the ice which dammed up beneath the bridge.

Zoar Bridge was one of the first suspension bridges ever constructed in Conecticut. The bridge now rests on the bottom of Lake Zoar. The Connecticut Light and Power cut the cable and dropped the bridge when the Stevenson Dam was completed about thirty years ago.

The old river road over which I traveled as a boy and man, also lies beneath the waters of the lake, except for three high places between Stevenson and Bennett's Bridge.

The everlasting hills above the river valley are beautiful and the scenery really lovely.

Those days of which I have written are now gone never to return. Old Baldy, the great eagle that flew majestically up and down the river valley, and nested on Poor Bonney, has disappeared. Where charcoal pits smoldered along the hill sides, and the old timers sat on the rive banks in the Spring fishing for suckers. Summer cottages and boat landings have sprung up like mushrooms.

As an old timer facing the sunset I wonder if we haven't lost something out of life. Trying to "keep up with Lizzie" is quite a strain and may cost more than it is worth. There was peace as well as contentment in those good old days which methinks many people of today will never know.

When the curtain of life is rung down and the sun hides back of Poor Bonney for my last day, no sweeter or finer music could fall on my ears than the singing of the now silent river which sang me to sleep so many times in my boyhood.

From one who knew and loved the old river valley.

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DICTIONARY
OF
American Biography

VOLUME III

CUSHMAN-FRASER

Edited by

ALLEN JOHNSON

AND DUMAS MALONE

Charles Scribner's Sons *New York*

died on his wedding trip, in Paris, probably of pleurisy or pneumonia.

[Herbert B. Adams, *The Coll. of Wm. and Mary* (1887), containing an excellent bibliography of the history of the college, useful in connection with Dewees's life; Wm. Meade, *Old Churches, Ministers and Families of Va.* (1857), I, 177 f.; E. R. A. Seligman, in *Economic Essays Contributed in Honor of John Bates Clark* (1927), ed. by J. H. Hollander; *Wm. and Mary Coll. Quart.*, VI (1897), 186, XIV (1906), 81 ff., XXVII (1920), 135; *Southern Lit. Messenger*, Oct. 1846.] B. M—l.

DEWEES, WILLIAM POTTS (May 5, 1768–May 20, 1841), physician, obstetrician, was born near Pottstown, Pa., founded by his maternal grandfather, Thomas Potts. On his father's side he was of Swedish descent. He apparently had only a moderate amount of school education, seems to have made an early decision to study medicine, and was placed in the office of a Dr. Phyle who was a practising apothecary. Later he was placed with Dr. William Smith, a practitioner of medicine, and attended classes at the University of Pennsylvania from 1787 to 1789. There is some doubt as to whether he took the degree of M.B. at that time. In any event it was not until 1806 that he received the degree of Doctor of Medicine from the University of Pennsylvania. His thesis was entitled *An Essay on the Means of Lessening Pain and Facilitating certain cases of Difficult Parturition* (1806). He began practise at Abington, Pa., and in December 1793 he moved to Philadelphia, it is said with the encouragement and patronage of Dr. Benjamin Rush.

At this time the subject of obstetrics received little attention from the profession in general and the great majority of deliveries were in the hands of midwives. There was no proper teaching of the subject and no formal instruction was given in the University of Pennsylvania. There was still a strong prejudice against men engaging in obstetrics. The "man midwife" was an object of derision well exemplified in the character which Laurence Sterne drew of Dr. Slop in *Tristram Shandy*. It must have required a good deal of courage to take up this specialty. Dewees devoted himself not only to the practise of obstetrics but to teaching it and was soon giving instruction to classes in his office. He became a very successful practitioner and it is said that he delivered over ten thousand women.

About this time there was strong pressure brought to bear on the authorities of the University of Pennsylvania to establish a chair of obstetrics and after much pleading this was done in 1810, but with the handicap that attendance on the lectures was not necessary for graduation. There was a keen struggle for the appointment

and Dewees saw it given to a rival, Dr. Thomas C. James. Other disappointments came as his health failed and he developed pulmonary tuberculosis. On this account he was compelled to give up the practise of medicine for a time and went to Phillipsburgh, where he took up farming. He lost money in this venture but regained his health so that in 1817 he was able to return to Philadelphia and resume practise. He became associated with the Medical Institute and resumed teaching. Soon afterward he was made a member of the American Philosophical Society. As the health of Dr. James had been such that he was unable to carry on the duties of his chair, Dewees was appointed adjunct professor of obstetrics in the University of Pennsylvania in 1825 and did most of the work of the department for nine years. He succeeded James in 1834 when he was appointed professor of obstetrics. Misfortune continued to follow him, as in 1835 he had what was probably a cerebral hemorrhage and was compelled to resign his professorship. It was a tragedy that when he had reached the height of his ambition, sickness so soon compelled him to give up active work. Afterward he lived in Mobile, Ala., for four years, later returning to Philadelphia where he died in 1841.

Dewees did much to advance the art of obstetrics by his skill but more by his teaching and writings. His chief work was *A Compendious System of Midwifery* (1852), which went through twelve editions. It must be regarded as the first authoritative work in America on the subject. In it Dewees followed the ideas of the French School to a considerable extent but introduced his own ideas and showed much original thought. He also published volumes on the diseases of women and children and went farther afield in a work on the practise of medicine. This last was evidently written hurriedly and did not add to his reputation. He is described as having been a good speaker and teacher but caustic in his criticism. He was married twice: first, to Martha Rogers, a daughter of a Dr. Rogers of New England, and second, to Mary Lorrain of Philadelphia (1802).

[S. W. Williams, *Am. Medic. Biog.* (1845); Jos. Carson, *Hist. of the Medic. Dept. Univ. Pa.* (1869); *Autobiography of S. D. Gross* (1887); F. P. Henry, *Standard Hist. of the Medic. Profession of Phila.* (1897); A. L. Kelly and W. L. Burrage, *Am. Medic. Biogs.* (1920).] T. M.

DEWEY, CHESTER (Oct. 25, 1784–Dec. 15, 1867), Congregational clergyman, educator, pioneer scientist, was born in Sheffield, Mass., the son of Stephen Dewey and Elizabeth Owen, and a descendant of Thomas Dewey, one of the first settlers of Dorchester, Mass. His boyhood was

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spent on a farm where he acquired the vigorous constitution and sound health which he enjoyed throughout life. Here, too, was probably awakened that compelling interest in plants, minerals, and the weather which determined the trend of his scientific studies. After a common-school education he prepared to enter Williams College and was admitted at the age of eighteen. Graduating in 1806, he followed a strong religious bent and studied for the ministry. A year later he was licensed to preach by the Berkshire Congregationalist Association. After a brief pastorate at West Stockbridge and Tyringham, Mass., he returned to Williams College as a tutor. From 1810 to 1847 he served as professor of mathematics and natural philosophy during which period he devoted much time to the development of work in physics and chemistry on the laboratory side and to the collection of museum specimens of geology and botany. Most of these he gathered by personal effort, others he obtained by exchange with collectors in this country and abroad, thus making the start for the fine museum now owned by the Institution. In 1823 he organized among the students the first anti-slavery society in Massachusetts. He served as principal of the Berkshire Gymnasium, at Pittsfield, Mass., 1827–36, and of the High School, afterward known as the Collegiate Institute at Rochester, N. Y., 1836–50. At the founding of the University of Rochester in the latter year he was elected the first professor of chemistry and natural sciences, which position he held until his retirement in 1861 as emeritus professor. From 1837 until within a week of his death, he made daily observations on the weather conditions of Rochester. He also lectured for many years, beginning in 1822, on chemistry and medical botany in the Berkshire Medical Institution, and in the Medical School at Woodstock, Vt., from 1842 to 1849. He was a born teacher and acquired knowledge, seemingly, chiefly for the purpose of communicating it to others. He was a leaven of intellectual activity in whatever community he resided.

His scientific observations covered a wide range. To the first volume (1819) of the *American Journal of Science* he contributed a "Sketch of the Mineralogy and Geology of the Vicinity of Williams' College," and fifty-three later volumes contain papers by him. Between 1824 and 1866 he contributed a long series on the sedges entitled "Caricography." These were never collected into a single volume but were characterized by Asa Gray as an "elaborate monograph patiently prosecuted through more than forty years." He further classed Dewey with Schweinitz and Torrey, two of the foremost students of North American plants, saying that they "laid the foundation and insured the popularity of the study of Sedges in this country." Dewey also prepared a *Report on the Herbaceous Plants and on the Quadrupeds of Massachusetts*, published by the state in 1840, and the section on the *carices* or sedges in Alphonso Wood's *Class-Book of Botany* (1845), the work being dedicated to him. His service to botany has been recognized in the name of the genus *Deweya*, umbelliferous plants of California. In the line of ethnology his writings include two critical reviews of Agassiz's *Essay on Classification* (*Princeton Review*, 1863), and one entitled "Examination of Some Reasonings Against the Unity of Mankind" (*Ibid.*, July 1862). Although familiar with the teachings of Lamarck and Darwin regarding evolution his acceptance of them was apparently prevented by his theological beliefs.

Dewey was married twice: in 1810 to Sarah Dewey, and in 1825 to Olivia Hart Pomeroy of Pittsfield, Mass. There were five children by the first marriage and ten by the second.

[Obituary by Asa Gray in *Am. Jour. Sci.*, 2 ser., XLV (1868); Martin B. Anderson, "Sketch of the Life of Prof. Chester Dewey" in *Smithsonian Inst. Ann. Report*, 1870; Chas. W. Seelye, "A Memorial Sketch of Chester Dewey, M.D., D.D.," in *Proc. Rochester Acad. Sci.*, vol. III; Florence Beckwith, "Early Botanists of Rochester," in *Ibid.*, vol. V (1912); and the sketch in H. A. Kelly and W. L. Burrage, *Am. Medic. Biogs.* (1920); L. W. Spring, *Hist. of Wms. College* (1917); W. F. Peck, *Hist. of Rochester, Monroe County, N. Y.* (1908); family records, including a four-page sketch by Dewey's son, prepared for the Rochester Hist. Soc. Obituaries appeared in newspapers all over the country; see especially *Rochester Express* and *Rochester Daily Democrat* for Dec. 16, 1867.]

C. W. D.

DEWEY, GEORGE (Dec. 26, 1837–Jan. 16, 1917), naval officer, was born at Montpelier, Vt. Among his ancestors were Douai, a Huguenot, who settled in Kent, England, the latter half of the sixteenth century; Thomas Duee of Sandwich, Kent, who emigrated to Dorchester, Mass., in 1634, changing his name to Dewey; Josiah Dewey his son, who had the rank of sergeant in King Philip's War; William Dewey, great-grandfather of the admiral, one of the volunteers at the battle of Lexington. George was the youngest of three sons, children of Dr. Julius Yemans Dewey and Mary Perrin. His mother died when he was five years old, but his father whom his son characterizes as "a natural leader," with "ideas of right and wrong . . . very fixed, in keeping with his deep religious principles," gave himself without stint to the bringing up of his boys. "To my father's influence in my early training I owe, primarily, all that I

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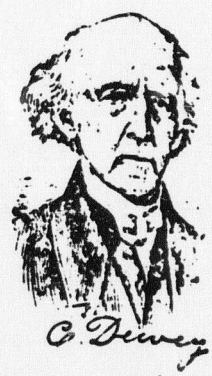
was ordered to Charleston, S. C. Here he tried to get leave of Gov. Rutledge, to raise and command a regiment of militia, but not succeeding, he returned to Virginia, where he recruited and organized a regiment, of which he took command with the rank of lieutenant-colonel. While there he went to Yorktown, and was present at the surrender of Cornwallis. In 1781–82 he was ordered to join Gen. Greene in South Carolina, but the order was countermanded to join Gen. Wayne in Georgia, where he was engaged in many successful actions. In the night surprise of Wayne at Savannah by the British and Indians, under Gueristersigo, Posey, by his coolness and ability, brought order out of confusion, and saved the body, sabering several of the enemy with his own arm. When the British evacuated Charleston, he marched in with a battalion, to keep them from plundering as they left. After the peace, in 1783, he married the second time, and settled in Spottsylvania county, Va., and was county lieutenant and magistrate. In 1793 he was commissioned brigadier-general in the legion of the United States, and served under Gen. Wayne in the Indian campaigns in the Northwest. He resigned in 1793, and settled in Kentucky, and was a member of the senate in 1805–6. In the war of 1812 he was in Louisiana, and separated from the army to which he belonged, but he raised a company and acted as captain, though holding a major-general's commission. When Destréhan resigned his seat in the U. S. senate in 1812, Gen. Posey was appointed to fill the vacancy. When his term had expired, Pres. Madison appointed him governor of Indiana territory, a position he held until it became a state in 1816, when he was a candi-

date for the governorship, but was defeated. He was then appointed Indian agent, an office which he held at the time of his death. Gen. Posey was twice married. His first wife was a daughter of Samson Matthews, one of the prominent revolutionary leaders of Augusta county, Va., by whom he had one son, who was a captain in the war of 1812. His second wife was the widow of Maj. George Thornton, a grandson of Mildred Washington, and daughter of John Alexander, the founder of Alexandria, Va. By her he had several children. They have numerous descendants, many of whom are, by intermarriage with descendants of Mildred Washington, nearest by blood to Gen. Washington. In person Gen. Posey was six feet two or three inches high, and of magnificent physique; light brown hair, clear blue eyes, and of ruddy complexion. He died March 18, 1818, at the home of his son-in-law, Joseph Montfort Street, at Shawneetown, Ill. He left a letter to his children and grandchildren on the conduct of life, and a sealed letter, to be delivered to his wife after his death, the contents of which have never been revealed.

DEWEY, Chester, scientist and educator, was born at Sheffield, Mass., Oct. 25, 1784. His ancestors came from England in 1633, and settled at Dorchester, Mass.; then in Windsor, Conn. The family returned to Massachusetts, and settled at Westfield. Young Dewey received a common school and academic education, then entered Williams College, where he was graduated in 1806. He studied for the ministry, and was installed in his first charge at Tyringham, Mass., in 1808. He was appointed a tutor in Williams College the same year, and in 1810 was called to the chair of mathematics and natural philosophy, a position he filled for seventeen years. He was professor and lecturer on chemistry and botany in the medical colleges of Pittsfield, Mass., and Woodstock, Vt., for many years, and principal of the Collegiate Institute of Rochester N. Y., from 1838–50. When the Rochester University was established in that year, he was appointed professor of chemistry and natural philosophy. He resigned this position in 1860, as he felt unequal to the performance of continuous active work, but retained his connection with the institution, and served at his own convenience. Prof. Dewey devoted his entire life to scientific research, and was considered one of the first of American naturalists. His specialty was the study of grasses, and he discovered many new species which he described. He was a recognized authority on the class of "carices," and wrote an elaborate monograph on the subject, which was the labor of over forty years. Many of his papers on scientific subjects were published in the "American Journal of Science;" those on the "Families and Natural Orders of Plants," attracting the attention of some of the leading European botanists, and leading to a correspondence with them. Meteorology also claimed his attention, and his weather observations were published in regular monthly reports. He wrote the "History of the Herbaceous Plants of Massachusetts," which was published by that state. His later writings were reviews on "The True Place of Man in Zoölogy," and "An Examination of Some Reasonings Against the Vanity of Mankind." Prof. Dewey lived in retirement after his eightieth year, and devoted himself to religious and benevolent works. The honorary degree of M.D. was conferred upon him by Yale in 1825; D.D. by Union College in 1838, and L.L.D. by Williams in 1850. He died in Rochester, N. Y., Dec. 5, 1867.



GRAHAM, David Brown, jurist, was born in Fairfield, Westmoreland co., Pa., Feb. 17, 1816, son of Andrew Graham, a merchant and farmer in moderate circumstances. His grandfather, Andrew Graham, emigrated from the north of Ireland about 1800, and settled in Westmoreland county, Pa., where he established himself as a merchant. The boy attended district school, worked on his father's farm and occasionally in the store until the age of sixteen, when he began teaching, and in the spring of 1832 he entered a business college, paying his tuition with the money he had earned and saved by teaching during the winter. He was graduated in 1833, and returned home to take care of his mother's farm and store. In 1834 he resumed his studies in an academy of his native village, and the same year enlisted in the 211th Pennsylvania volunteer infantry. He participated in the capture of Petersburgh, and served until the close of the war. In 1865 he resumed his studies at Westminster College, Pennsylvania, and was graduated in 1869 an A.B. He then taught in the academy, Fairfield, Pa., devoting his spare time to a general course of read-

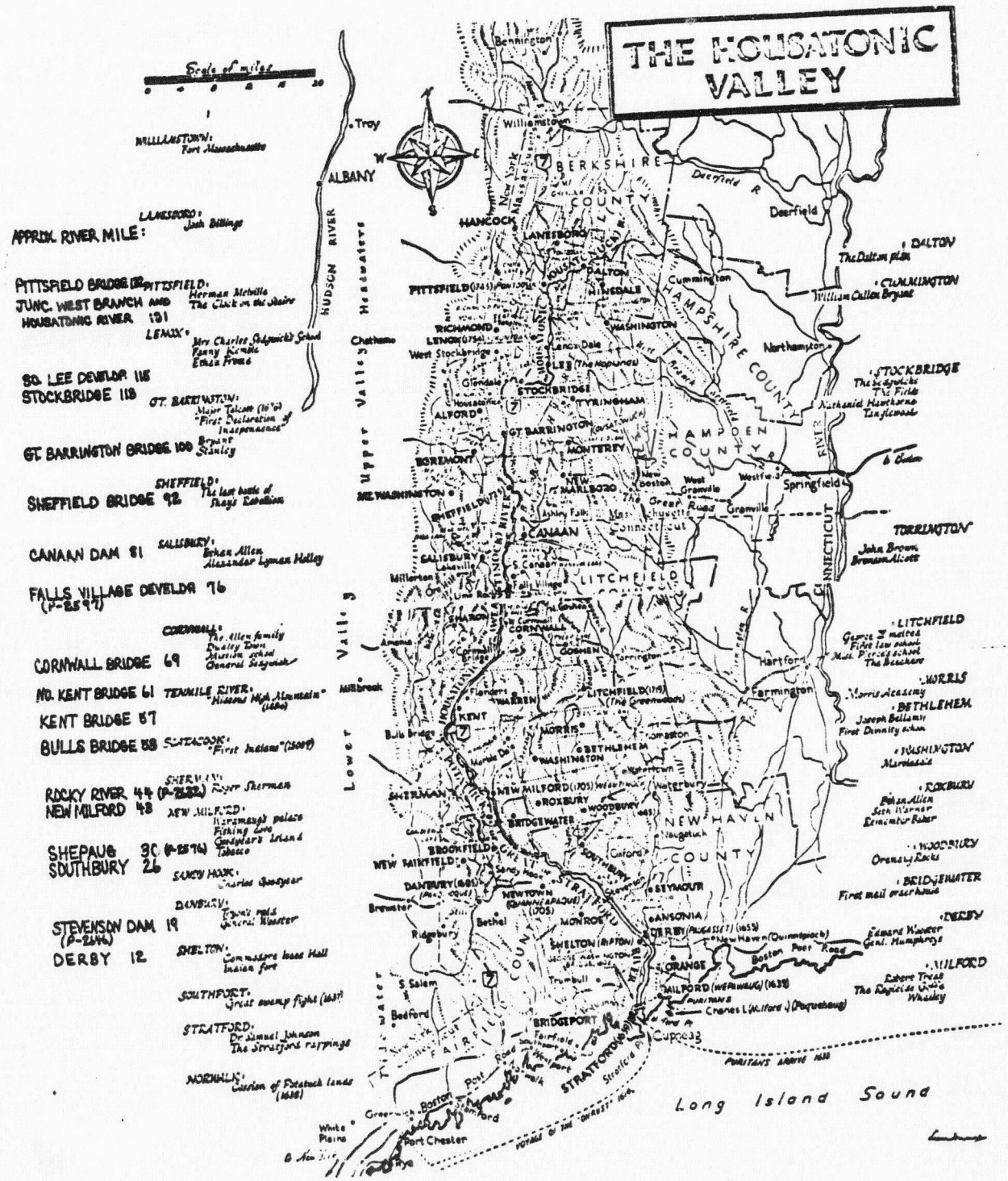

THE HOUSATONIC VALLEY
Scale of miles
0 1 2 3 4 5 10
APPROX. RIVER MILE:
PITTSFIELD BRIDGE 131
JUNC. WEST BRANCH AND HOUSATONIC RIVER 131
SO. LEE DEVELOP 115
STOCKBRIDGE 113
GT. BARRINGTON BRIDGE 100
SHEFFIELD BRIDGE 92
CANAAN DAM 81
FALLS VILLAGE DEVELOP 76
(P-2597)
CORNWALL BRIDGE 69
NO. KENT BRIDGE 61
KENT BRIDGE 57
BULLS BRIDGE 53
ROCKY RIVER 44 (P-2322)
NEW MILFORD 43
SHEPAUG 30 (P-2576)
SOUTHBURY 26
STEVENSON DAM 19 (P-2496)
DERBY 12
WILLIAMSTOWN: Fort Massachusetts
LANESBORO: Josh Billings
PITTSFIELD: Herman Melville The Cliff in the Shaire
LENOX: Mrs Charles Sedgwick) School Fanny Kemble Ethan Frome
GT. BARRINGTON: Major Talcott (16"4) "First Declaration of Independence" Bryant Stanley
SHEFFIELD: The last battle of Shays Rebellion
SALISBURY: Ethan Allen Alexander Lyman Holley
CORNWALL: The Allen family Duality Dam Musician school General Seymour
TEN MILE RIVER: Hitsons High Mountain (1680)
SCATACOOK: "First Indians" (1600?)
SHERMAN: Roger Sherman
NEW MILFORD: Norsemen(?) palace Fishing Lore Gardner's Island Tobacco
SAUCY HOOK: Charles Goodyear
DANBURY: Town road General Wooster
SHELTON: Commissary house Hall Indian fort
SOUTHPORT: Great swamp fight (1637)
STRATFORD: Dr Samuel Johnson The Stratford rappings
NORWALK: Custom of Fotatuck Indians (1638)
Bennington
Williamstown
Troy
ALBANY
HUDSON RIVER
Upper Valley
Lower Valley
Housatonic River
Housatonic R.
Housatonic R. Valley
BERKSHIRE COUNTY
HAMPSHIRE COUNTY
HAMPDEN COUNTY
LITCHFIELD COUNTY
NEW HAVEN COUNTY
FAIRFIELD COUNTY
HANCOCK
LANESBORO
PITTSFIELD (1761)
DALTON
HINSDALE
WASHINGTON
RICHMOND
LENOX (1754)
West Stockbridge
Chatham
Lenox Dale
LEE (The Mounds)
Glendale
STOCKBRIDGE
TYRINGHAM
ALFORD
GT. BARRINGTON
MONTEREY
BECKET
NEW MARLBORO
NEW WASHINGTON
SHEFFIELD (1duty)
CANAAN
SALISBURY
Lakeville
S. Canaan
Falls Village
Lime Rock
Millerton
SHARON
CORNWALL
GOSHEN
Amenia
Cornwall Bridge
Millbrook
Flanders
WARREN
LITCHFIELD (1719) (The Greenwoods)
KENT
Bulls Bridge
MORRIS
Morris Dr.
WASHINGTON
BETHLEHEM
Woodtick
Litchfield
Torrington
Waterbury
SHERMAN
NEW MILFORD (1705)
ROXBURY
WOODBURY (1673)
BRIDGEWATER
Oxford
BROOKFIELD
NEW FAIRFIELD
Sandy Hook
DANBURY (1685)
(Assoc. court)
NEWTOWN (QUANNIPIACKUS) (1705)
SEYMOUR
ANSONIA
DERBY (PAUGASSETT) (1653)
New Haven (Quinnipiack)
Boston Post Road
ORANGE
MILFORD (WEPAWAUG) (1639)
Brewster
Ridgebury
Bethel
MONROE
SHELTON (HUNTINGTON)
Trumbull
S. Salem
Bedford
BRIDGEPORT
Fairfield
Westport
STRATFORD
Stratford Pt.
Cupsaug
Charles L (Milford) (Paquehaug)
Ford R.
Deerfield R.
Deerfield
DALTON
The Dalton plan
CUMMINGTON
William Cullen Bryant
Cummington
Northampton
STOCKBRIDGE
The Sedgwicks The Fields Nathaniel Hawthorne Tanglewood
Springfield
Westfield
Connecticut River
Ashley Falls
Great Barrington
West Granville
Granville
Hartford
Farmington
LITCHFIELD
George III melted First law school Mrs. Pierce's school The Beechers
WORRIS
Morris Academy
BETHLEHEM
Joseph Bellamy First Divinity school
WASHINGTON
Marmaduke
ROXBURY
Ethan Allen Seth Warner Benedict Baker
WOODBURY
Orenda's Rocks
BRIDGEWATER
First mail order house
DERBY
Edward Wooster Gen. Humphreys
MILFORD
Eaton Treat The Rapids Cider Whiskey
PURITANS ARRIVE 1638
Long Island Sound
White Plains
Port Chester
Greenwich
Boston Post Road
Stamford
Rye
Norwalk

Exhibit 36

C

CONNECTICUT

HISTORICAL COLLECTIONS,

CONTAINING A

GENERAL COLLECTION OF INTERESTING FACTS, TRADITIONS,

BIOGRAPHICAL SKETCHES, ANECDOTES, &c.

RELATING TO THE

HISTORY AND ANTIQUITIES

OF

EVERY TOWN IN CONNECTICUT,

WITH

GEOGRAPHICAL DESCRIPTIONS.

ILLUSTRATED BY 190 ENGRAVINGS.

BY JOHN WARNER BARBER.

SECOND EDITION.

[The Seal of the State of Connecticut.]

He who transplanted still sustains.

NEW HAVEN:
PUBLISHED BY
DURRIE & PECK AND J. W. BARBER,
Price--Three dollars.
PRINTED BY S. L. HANLEY.

Entered according to the Act of Congress, in the year 1836,
by JOHN W. BARBER and A. WILLARD,
in the Clerk's office, of the District Court of Connecticut.

PREFACE.

THE power by which we recall past scenes, the rapidity with which they are brought in review before us, the faculty by which we can "range o'er creation," and dwell upon the past and future, demonstrates that man was indeed formed in the image of his Creator, and destined for immortality. By the contemplation of the past, we feel our span of existence extended: we enter into the thoughts, hopes, and aspirations of generations before us, and in such moments hold communion with the departed spirits of antiquity.

Every thing relating to the history of the "Pilgrim Fathers," is worthy of preservation. "The Puritans," says a writer in no wise partial to them, "were the most remarkable body of men, perhaps, which the world has ever produced.....They were men whose minds had derived a peculiar character from the daily contemplation of superior beings and eternal interests. Not content with acknowledging in general terms an over ruling providence, they habitually ascribed every event to the will of the Great Being, for whose power nothing was too vast, for whose inspection nothing was too minute. To know him, to serve him, to enjoy him, was with them the great end of existence. They rejected with contempt, the ceremonious homage which other sects substituted for the homage of the soul.....On the rich and the eloquent, on nobles and priests, they looked down with contempt: for they esteemed themselves rich in a more precious treasure, and eloquent in a more sublime language; nobles by the right of an earlier creation, and priests by the imposition of a mightier hand!" These were the men to whom the world owes the preservation of civil and religious liberty, their enemies being judges; and it was men of this stamp that were the fathers of Connecticut.

Though small in territorial extent and population, Connecticut is second to none of her sister states in the virtue, genius and enterprise of her sons. Considering the amount of her population, she has furnished a large proportion of distinguished men in almost every department of life, and some of the most powerful states in this Union are largely indebted to her for the elements of their greatness and prosperity.

The early history of Connecticut, in its various parts, has been ably written by Dr. Trumbull, the venerable historian of his native state. To this work the author is deeply indebted, as he is also to the "Gazetteer of Connecticut and Rhode Island," by John C. Pease and John M. Niles, Esqs., a work of much labor and merit. For the account of the towns in Middlesex County, "Field's Statistical Account" has furnished much valuable information. The extracts from the most ancient newspapers were taken from files of the New Haven journals, the earliest and only copies, it is believed, that are now in existence. These journals are in the valuable library left by the late Col. William Lyon, a distinguished antiquarian, and are now in possession of his son, William Lyon, Esq. a gentleman to whom the compiler feels himself under lasting obligations. To the various gentlemen in different parts of his native state, who have furnished information for this work, the author would here return his grateful acknowledgments.

It may be thought, perhaps, by some, that an apology ought to be made for inserting many things contained in this book: some things may be thought too trivial, others too marvelous, to be recorded. With regard to the first, it ought to be borne in mind, that many things which at the first sight may appear to us to be of little moment, may hereafter be deemed of much importance. With regard to the latter objection, it may

Ex. 1, 6+ 36

be observed, that the history of any people may be considered as defective, which does not give an account of their religious belief and opinions, &c. however erroneous. Although in this age most of us may smile at what we consider the superstitions and weaknesses of our forefathers, yet it may be well to reflect that Sir Matthew Hale, Dr. Johnson, and others, men of the greatest intellect the world ever produced, lie under the same imputations. Compared with these men, many of those who affect to smile at their opinions are but mere children in understanding.

The numerous engravings interspersed through this work, were (with five or six exceptions) executed from drawings taken on the spot, by the author of this work. Before deciding upon the correctness of these representations, he wishes his readers to consider that the appearance of any place will vary considerably as it is viewed from different points: thus, a *north* view will appear quite different from one taken at the *south*. A person not being used to see a place from the point from which the drawing is taken, it may not at first sight be readily recognized. Before any view is condemned as being incorrect, it will be necessary, in order to form a correct judgment, to stand on the place from whence the drawing was made.

In giving the notices of distinguished individuals, a limited number only could be inserted. In some instances, perhaps, the information obtained respecting some towns may have been defective. The history of some important towns may apparently not have received that attention to which they are entitled: the failure of obtaining the desired information, after the attempt was made, must be the apology.

New Haven, 1837.

J. W. B.

AMID such a variety of facts, names and dates, it is not to be expected but that some mistakes and omissions may occur. The following is a list of all which have as yet been discovered.

Glastenbury, page 93, for Hanahbuke read *Kanahbuke*, sometimes spelt Kanawbuck: Houksett should be *Konksett*, sometimes spelt Conksett.

Derby, page 200, for 20 or 30 rods below the bridge, read *about one mile*, &c.

Groton, page 309. *Samuel Seabury*, the *first bishop* of the Protestant Episcopal Church in the United States, was born in Pequonnuc, a small village in this town, about three or four miles eastward of New London. He graduated at Yale College in 1751. He studied theology in Scotland and in 1753 obtained orders in London. He was consecrated a bishop in Scotland, by three non-juring bishops in or about 1784; and returned to New London, where he discharged the duties of his office till his death. (*See page* 282.)

Groton, page 309, for brother of, read *uncle to*.

Waterford, for Gardiner, read *Gardiners*.

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agent to solicit a committee from the Gen. Assembly, to determine upon the site for the meeting house. Matthew Gillet and Saml. Benham, quoristors, to tune or set the psalms.

June 26, 1739.—Voted to give Mr. Marsh a salary of £100 yearly for 4 years, and after that to add five pounds a year till it amount to £140. Voted to give Mr. Marsh £2 5s. for each Sabbath he shall preach till he is settled, he to board himself.

July 21, 1739.—Voted to give Mr. Marsh £100 a year for three years, and after that to add £10 a year till it amount to £150. Voted, that we will proceed to build a meeting house, &c. and the length shall be 50 foots, and the bredth 40 foots.

Sept. 11, 1739.—Voted to add 5 foots to the length of the meeting house. Voted, that the ordination of Mr. Marsh be on the 2d Wednesday of October next. Voted, that the time to begin to raise the meeting house be the 20th May, 1740. Committee may hire assistance to raise the house, if it cannot be done otherwise. Voted, that the committee make a sutabel preparation of liquer for the raising of the meeting house.

9th March, 1741, a committee appointed to consult with some of the neighboring ministers, and with their advice appoint a day of fasting and prayer, and notify the inhabitants thereof.

Sept. 21, 1749.—Voted, that the Rev. Mr. Marsh have his choice of any pew in the meeting house, for to accommodate his family to sit in on the Lord's day, and at other times.

NEW MILFORD.

NEW MILFORD, the largest town in territorial extent in Connecticut, is in the southwestern extremity of the county. It is bounded N. by Kent, E. by Washington, Roxbury and Southbury, S. by Newtown and Brookfield, and W. by New Fairfield and Sherman. It has an average length of 13 miles, and an average breadth of 6½ miles, comprising an area of 84 square miles. The township is hilly and broken, several mountainous ridges extending through it. "The soil is much diversified, and where susceptible of cultivation, it is generally good; but on the whole more distinguished for grain than grass. There are, however, large quantities of excellent meadow ground, but the pasturage is, on the whole, not abundant. It is essentially a farming town. Large quantities of grain are annually raised. The township is centrally intersected by the Housatonic: two branches of the Ashpetuck, Rocky and Still rivers, with other streams, enter the Housatonic in this town, affording numerous excellent mill seats. On Second hill, in the eastern part of the town, from two to three miles from the central village, are inexhaustible quantities of granite of a superior quality. There are also a number of extensive marble quarries in the town. The hatting business is carried on to some extent in Bridgewater society. There are 9 houses of worship in the town, 2 Congregational, 2 Episcopal, 2 Baptist, 2 Methodist, and 1 for Friends or Quakers.

The following ancient history of the town of New Milford, is extracted from Rev. Stanley Griswold's sermon, delivered at New Milford, January 7th, 1801, which was by a vote of the town entered on their records. For these extracts, with some additional notes and other valuable information, the author is indebted to the Hon. David S. Boardman, of New Milford.

"The town of New Milford was purchased of the colony of Connecticut, by a company of individuals, chiefly belonging to Milford, in this state: hence the name it received, New Milford. This purchase

was made in the year 1703, about 98 years ago.* Afterwards an additional purchase was made, which forms the northern extremity of the town, and was called the north purchase. This was made in the year 1722. This town is now, I believe, the largest in territorial limits of any town in the state, and formerly was somewhat longer than it is at present. A part of it was set off on the south end, west of the river, to help form the town of Brookfield. Another part was set off on the northeast corner, to help form the town of Washington. Still, as it now remains, the longest right line through it from northeast to southwest is not far from 20 miles.†

"The first settlement that was made in this town by civilized people, was in the year 1707; so that New Milford has now been settled about 93 years. At that time a considerable number of the natives inhabited here, of whom there were reckoned about 200 warriors. They dwelt chiefly along the intervale by the river, a part of which intervale is to this day called Indian Field;‡ and several of their burial grounds are yet to be seen in various parts of the town. Their graves are of a circular form, and the persons were buried sitting up, as in a natural position, on the ground. For some time after the white people came here, an Indian chief or sachem, named *Werauhamaug*,‖ had a palace standing near the Great falls, where he resided. On the inner walls of this palace, (which were of bark with the smooth side inwards,) were pictured every known species of beast, bird, fish and insect, from the largest down to the smallest. This was said to have been done by artists whom a friendly prince at a great distance sent to him for that purpose, as Hiram to Solomon. In this palace, the forementioned chief was visited by the Rev. Mr. Boardman, first minister of this town, during his last sickness, and at his death. Mr. Boardman has left in manuscript, a minute and circumstantial account of his labors with the sachem to enlighten him in right Christian doctrines, as also the singular, rude, and abusive behavior of the other natives on the oc-

* This tract was called *Weantinoque*. The original purchasers and proprietors were 109 in number, 99 of whom were purchasers of whole rights, and 10 of half rights: 24 shillings was the purchase of a whole, and 12 shillings of a half right. No individual had originally more than one right. The first division of land was granted in December, 1706, and was a home lot of 7 and a half acres and 10 acres for pasture. The 2d division was in May, 1712, of two lots of 40 acres each upon a right; ten other divisions were granted before 1760. New Milford first sent representatives to the General Assembly in 1725. It was the second town settled in the county. Woodbury was the first.

† About 18 miles.

‡ On the west bank of the river, opposite the village.

‖ He was so considerable a personage as to have reserved, as his hunting ground, a considerable part of the present society of New Preston, which always, until the incorporation of the town of Washington, of which it is a part, was called *Raumaug*, after the original proprietor, dropping for convenience sake, the prefix *we*. I have often seen the grave of this chief in the Indian burying ground, at no great distance from his place of residence; distinguished, however, only by its more ample dimensions, from the surrounding graves, out of many of which large trees are now growing. There is a similar burying ground on the west side of the river, opposite to and in sight of our village, (New Milford,) on the bluff, bounding the Indian field, so called, and contiguous to Fort Hill, the site of the last Indian fortress known to have existed in this town.

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casion; from whence it appears that few or none of those people, (the sachem excepted,) were disposed at that time to embrace Christianity: and so far as those people in this town and its neighborhood were ever converted to the Christian religion, it was a considerable time afterwards, by the Moravian missionaries. *Count Zinzendorf* himself came to this town and preached here. After the conversion of the natives by the Moravians, they quitted their settlements here on religious accounts, and removed to Bethlem, in Pennsylvania, where the brethren of that communion chiefly resided. But finding it very unhealthy for them there, and a large number dying, the remnant removed back again, where they have lived and gradually dwindled ever since.* The natives had sundry fortresses, or military stations, in and about this town, to guard against attacks from distant tribes. Some spots in the town bear an allusion to them to this day, as *Fort Hill, Guarding Mountain,*† *&c.*

"It has been said that all the tribes along by this river, from its source to the sea, were in strict alliance and friendship; and that by means of certain sounds made on their guarding heights, an alarm might be spread in the space of three hours, through the whole line of tribes, a distance of near 200 miles. The natives were generally very friendly, and serviceable to the first settlers of this town, by defending them from hostile attacks, and by supplying them with such provisions as they could furnish. They had several reserves of land made for their accommodation in and about the town, as for a considerable time the *Indian field*, so called, the place once called Ranmaug, (from the name of the sachem before mentioned,) now in the parish of New Preston; the *Great Falls*, which they reserved for the fishing of lampreys; and lastly, the place where they now reside, called Scatacook. The two former they sold many years since, the two latter they still own. But their number has ever been diminishing since the neighborhood of the white people, and at this time they are reduced to a mere handful. So much for the natives.

"The first white settler who came to this town was John Noble, from Westfield, state of Massachusetts, who came here in the year 1707. He brought with him at first one of his daughters, then about eight years old. He first built him a hut under what is called Fort hill, but afterwards removed and pitched here, in the present center of the town. His house here was for some time the last house on this side of Albany, and Gen. Nicholson once lodged in it, in the wars under the reign of Queen Anne. It deserves to be mentioned, to the credit of the natives, that Mr. Noble once left his little daughter here, 8 years old, alone with them, for the space of three or four weeks, while he was necessarily absent from the town, and on his return he found she had been well treated, and taken exceedingly good care of.

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* When the Indians returned from Pennsylvania, as mentioned by Mr. Griswold, few of them took up their permanent residence in this town. They joined the Scatacook tribe, but used for a long time in the season of fishing, annually to revisit their fishing ground at the Great Falls, two and a half miles below the village, for the purpose of taking lampreys, their favorite fish, which are not found above these falls. This stand they never would part with, and, though occupied by the whites also for the same purpose, the Indians' rights were always recognized, and even to this day, when a straggler comes there, the whites allow them their turn. The Scatacook tribe are not quite extinct, and the few who remain, are under the care of an overseer appointed by the state, and who annually reports the state of their affairs to the county court of this county. Scatacook is situated in the town of Kent, and the account of it belongs to that town, and not to New Milford; and I only add this note to guard against a possible misconception of Mr. G.'s meaning in the place noted.

† On the bluff adjoining the mountain back of the Indian field.

"It is impossible at this distance of time to ascertain the exact order in which the subsequent settlers came to this town, or the identical years in which they came. It is presumed, however, that we have obtained by diligent search and enquiry of the aged, somewhere near the order of their coming, as also the places from whence they came. We shall first mention the names of those who came more than 60 years ago, (whom we may consider the first settlers,) together with the places whence they emigrated, setting them down in the order in which it is supposed they came, viz. John Noble, Westfield; John Bostwick, Stratford; Zechariah Ferriss, Stratford; Samuel Hitchcock, Springfield, Mass.; Samuel Brownson, Farmington; Roger Brownson, Farmington; John Weller, Springfield; Jeremiah Canfield, Milford; Daniel Boardman, Wethersfield; Samuel Camp, Milford; Theophilus Baldwin, Milford; Ebenezer Baldwin, Milford; William Gaylord, Windsor; James Hine, Milford; Daniel Hine, Milford; Joseph Warner, Hadley, Mass. John Warner, Hadley, Mass.; James Prime, Milford; John Welch, Milford; Paul Welch, Milford; Thomas Pickett, Danbury; Jonathan Buck, Wethersfield; Enoch Buck, Wethersfield; Ezekiel Buck, Wethersfield; Henry Garlick, England; Eleazer Beecher, Milford; Joseph Ruggles, New Haven; Nathan Collins, Milford; Joseph Collins, Milford; Amos Collins, Milford; Ezekiel Paine, Rhode Island; Samuel Peet, Stratford; John Peet, Stratford; Thaddeus Peet, Stratford; Thomas Oviatt, Milford; Gamaliel Terrill, Milford; Nathan Terrill, Milford; Job Terrill, Milford; James Terrill, Milford; Caleb Terrill, Milford; Joseph Murray, Westchester, N. Y.; Josiah Smith, Danbury. [A long list follows, but it will be quite useless to pursue it.]

"The first white male child born in this town was the late Lieut. Daniel Bostwick;* and the first female was Mrs. Sarah Noble, formerly Ferris, now living. And it is worthy of remark, that three persons have lived in this town to be more than 100 years of age, two of whom are now living.

"The early part of the settlement here was somewhat retarded by a tedious lawsuit, regarding the title to a considerable tract in the center of the town. Col. John Read claimed it, under a title from the natives, and removed here to gain a residence and defend his title. This discouraged settlers under the company's title from coming on, and but a small number came the few first years. These few, like all other first settlers, saw troublous times; and their names are worthy the affectionate remembrance and praise of their posterity. It was common for them to carry their fire arms into the field to labor, and they were obliged to provide a fortified house to resort to in time of danger; and they were sometimes reduced to distress, through the failure of provisions and the difficulty of supplying themselves.

"The town plot or center was first laid out on the hill next east of the present center, whence that hill is to this day called *Town Hill*. Afterwards it was concluded to remove the center to the top of the hill next north of the present center, for which the first minister built and lived on that hill. But ultimately it was thought more convenient to place the center where it now is.

"New Milford for a considerable time belonged to the County of New Haven; but after Litchfield County was erected, it was set off to the latter. It is ascertained from the papers of the first minister, that in the year 1712, there were but 12 families in this town. Col. John Read, who is mentioned before as having been once a candidate for the ministry, preached the first sermon that ever was preached here. After he left the place, his house, which stood near where the present town house stands, was used as a place of worship for some years. The first meeting house was built in the year 1720. It stood near the foot of the hill, a few rods to the northeast of the present town house. There the first minister, Mr. Boardman, officiated during his life; and the second minister, Mr. Taylor during some of the first years of his ministry. It is

* This Daniel Bostwick was the youngest son of John Bostwick, the second settler who came here.

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Exhibit 37

A

HISTORICAL ADDRESS,

DELIVERED AT THE

COMMEMORATION

OF THE

ONE HUNDREDTH ANNIVERSARY

OF THE

FIRST ANNUAL TOWN MEETING OF THE TOWN OF SALISBURY,

OCTOBER 20, A. D. 1841.

BY SAMUEL CHURCH

NEW HAVEN:
HITCHCOCK & STAFFORD, PRINTERS.
1842.

F164
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IN EXCHANGE
JAN 5 - 1915

At a legal Town Meeting of the inhabitants of the Town of Salisbury, holden October 24th, 1841, it was

Voted, That the thanks of this Town be presented to the Hon. SAMUEL CHURCH, for the Address he has this day delivered

Voted, That the Committee of Arrangements be directed to request of Judge CHURCH a copy of his Address, to be printed under the direction of the Selectmen.

A true copy of record. Attest,

ROGER AVERILL, *Town Clerk.*

TO THE COMMITTEE OF ARRANGEMENTS:

GENTLEMEN—I have this day received from the Town Clerk and from the Secretary of your Board, the foregoing votes, requesting a copy of the Address delivered by me at our Centennial Town Meeting, October 20th, 1841, for publication.

I have hesitated much whether in justice to myself I ought to permit the Address to be published. It was not intended originally for the public, but rather to give some additional interest to our Commemorative Meeting. Besides, I have had neither leisure nor patience to prepare it for the public eye.

If you receive it, gentlemen, you must be content to receive it with all its imperfections. So far as it purports to give a history of our Town, I think it may be relied upon as correct; at least, as nearly so as it could be made by a very cautious dependence upon well authenticated tradition, and a resort to public records and private documents.

If its publication will add at all to the gratification of the inhabitants of my native Town, or to the pleasure of our widely-dispersed friends abroad, to whom I am under many obligations of gratitude, I consent to it.

SAMUEL CHURCH.

To Messrs. ELIPHALET WHITTLESEY,
JOHN C. COFFING,
ALEXANDER H. HOLLEY,
JARED S. HARRISON,
SAMUEL C. SCOVILLE,
ROGER AVERILL,
Committee of Arrangements.

Salisbury, January 21, 1842.

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Exhibit 37

ADDRESS.

MR. MODERATOR,*

THIS day completes a century since the first of your predecessors, Thomas Newcomb, presided as moderator of our first Town Meeting. Our records do not inform us where that meeting was convened; probably not far from the place where we are now assembled. More than one half of this period has passed away since I have lived, and you, Sir, have survived nearly three fourths of it.

Within this brief space, what mighty events have transpired! Kingdoms have risen up and kingdoms have fallen, and almost the entire map of the world has been changed. The progress of science and the arts, the recognition and security of human rights, the tolerant spirit of genuine Christianity, all have been in full and successful accomplishment, within the last century, to an extent never before witnessed in this world's history. And within our own town, hardly an evidence of its original identity exists, except its hills and waters and public records! Were our powers of fancy and anticipation of prophetic mould, what think you, Sir, we could now see of the results of another century of equal progress?

Our ancestors, whose deeds and memories we would now recall, and of whom our early records speak, were free in spirit and purpose, and yet were the subjects of a master;

* Lot Norton, Esq.

the beginning; and yet we have been, pre-eminently, an agricultural people. There have been but few places in which the agricultural facilities have been more diversified than this, although the committee which first explored our territory, had some doubts whether it could sustain a sufficient population to *support a minister!* For many years, wheat was a staple production; of late, the culture of this grain is much diminished. The influx of flour from other regions, is the cause. The cultivation of flax has been relinquished. Our farmers formerly found their markets either with the merchants in town, or upon the Hudson river. The town market, except so far as it is sustained by the manufacturers, is now at an end, and our grain finds no market on the North river; and yet our agricultural prosperity has been well sustained. This town, in common with other places, has suffered by a fashionable aversion to agricultural pursuits, which, for some years, has been very perceptible. The experience of the few last years, however, has taught our farmers some salutary lessons, and led them to appreciate more correctly the superior advantages and independence of their condition. Few towns can boast of a more intelligent agricultural population than ours.

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Formerly, there were not more than three well established mercantile concerns in the town—Holley's, at the Furnace—Moore's, at the Center—and Chapin's, at Camp's Forge. Now, we have no less than thirteen dry goods stores! How they are sustained, if sustained at all, I am not informed. Not more than three of this number are engaged in the sale of ardent spirits!

The iron ore, the forests, and the frequent water power found here, at a very early period introduced the manufacture of iron, and we have had but few other manufactories. The first forge was erected by Thomas Lamb, in the Hollow, as it was formerly called, now called Lime Rock, before the charter of the town, and I believe before its sale at Hartford, in 1738. *Lamb's Iron Works* are referred to as existing in the

earliest conveyances. They were probably erected as early as 1734. Soon afterwards, a grist mill and saw mill were built just below, upon the same fall of water, by Lamb and others. The Lime Rock forge and furnace of Messrs. Canfield & Robbins, now occupy the sites of these ancient works. Iron ore was first taken from the Hendricks ore bed, now called the Davis ore bed, to supply Lamb's iron works. Lamb was a proprietor of that ore bed. These works have subsequently been occupied by Thomas Starr, Martin Hoffman, Joel Harvey, Thomas Chipman, Jun., Ebenezer Hanchett, Thomas Austin, and James Johnston; and, for many years, were known only as Johnston's forge.

Capt. Samuel Beebe built a grist mill at the upper or Little Falls of the Housatonuc, where Ames' iron works now are, as early as 1742. It was not many years in operation. A grist mill was built by John Corbit, in the southwestern section of the town, where Benedict's mill now is, in 1746.

Jacob Bacon and Daniel Parke, in 1748, built a grist mill and forge upon Succunops brook—the outlet of the pond in Chapinville. Deacon Hezekiah Camp became its proprietor in 1759, and the forge retained the name of Camp's forge, for several years. The works at that place were afterwards owned by the late Phineas Chapin, Esq., a descendant of Deacon Camp. The furnace now in operation upon the site of the old forge, was erected by Sterling, Chapin, & Co., in the year 1825; and the neighborhood there then received the name of Chapinville.

Thomas Lamb, who owned the outlet of the Furnace Pond, conveyed it in 1748, to Benajah Williams, Josiah Stoddard, and William Spencer. These persons soon after built a forge, near where the remains of the old furnace now are. Afterwards, ——— Moorhouse, Caleb Smith, John Dean, John Pell, Gideon Skinner, Joseph Jones, Eliphalet Owen, John Cobb, and Leonard Owen, were at different periods its proprietors. It was called Owen's Iron Works. In 1762, Leonard Owen

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conveyed this property to John Hasletine, Samuel Forbes, and *Ethan Allen*. These gentlemen erected the first blast furnace ever built in this State, as I suppose. Charles and George Caldwell, of Hartford, purchased this property in 1763, and they conveyed it to Richard Smith, of Boston, in 1768. Joseph Whiting, William Neilson, Luther Holley, and Holley & Coffing, have since been its proprietors.

Thomas Lamb was proprietor of the water privilege on the mountain, since called Riga, and had control of the stream flowing therefrom. Very early he erected a saw mill and grist mill on that stream, about one half mile northwest of the Center Village, at or near the falls upon which Clark's mills now stand,—as early, I think, as 1714. This property was soon afterwards owned by Joel Harvey and Joseph Parke, and from them has been transmitted through various proprietors to the present owners.

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Nathaniel Jewell, in 1753, built a grist mill on the northern line of the town, near Sage's present works.

No business was done at the great falls of the Housatonuc, before the erection of the paper mill, in 1783. That manufactory was established by the late Samuel Forbes, Esq. and Nathan Church, and for several years was an active and prosperous concern. Paper was then made exclusively of linen rags, and by the slow process of the hand mould. A saw mill and fulling mill were erected there about the same time. An extensive lumber business was prosecuted. Pine timber in large quantities, and of excellent quality, was by the spring freshets annually drifted down the river from the towns above.

About the year 1797, Charles Loveland erected an extensive manufactory of gun barrels there. The entire works, except the saw mill, were destroyed by fire in February, 1800, and never rebuilt. For several years thereafter, no active business was done in that neighborhood.

About or Peter Woodin erected a forge at Mt. Riga, about

the year 1781. Daniel Ball succeeded; and the forge was many years known as Ball's forge. Seth King and John Kelsey commenced building a furnace there, about 1806, but were not able to complete it. The entire property in the forge and furnace came into the hands of Colling, Hotchkiss, & Pettee, in the year 1810, who, the same year, finished the furnace, and for many years prosecuted a very extensive and profitable business. Pig iron, anchors, screws, and various kinds of manufactured iron, were made there. This establishment, including the works at Lime Rock, were incorporated in 1828, by the name of the Salisbury Iron Company.

The furnace near the Falls Bridge, was built by Leman Bradley, in 1812. It was burnt in 1814, and immediately rebuilt. The refining forge there was built by Canfield, Sterling, & Co. in and the neighborhood, about that time, received the name of Falls Village. The iron works there and at Lime Rock, are now the property of Messrs. Canfield & Robbins.

The iron works at the upper or little falls of the Housatonuc, were built in 1833, by Eddy, Ames, & Kinsley, but have since that time been much extended by Mr. Oliver Ames, their present proprietor.

Within the last thirty years, our manufactories have been confined chiefly to iron, in its several varieties, from the raw material to the finished article. Our mines have yielded an ore superior to any other yet found in this country, for all purposes requiring great strength. I have alluded before to the cannon made here in former years. Iron for the manufacture of muskets, anchors, chain cables, &c. is made here of a superior quality, and has engaged the attention of the national government. We have now four blast furnaces in operation, and five refining forges.

The daily consumption of charcoal in one of our furnaces, is about six hundred bushels. And the average yield of pig iron, is about three tons per day.

A refining forge will consume about three hundred bushels

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THE PUBLIC

Statute Laws

OF THE STATE OF

CONNECTICUT.

BOOK I.

PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.

HARTFORD:
PRINTED BY HUDSON AND GOODWIN.
1808.

Exhibit 38

CHAP. III.

An Act in addition to "An Act for detecting and punishing Trespasses in divers Cases, and directing proceedings therein."

[Enacted in May, 1807.]

Relative to timber, &c. floated down the Ousatannick.

BE *it enacted by the Governour and Council and House of Representatives in General Court assembled*, That so much of the said act as is contained in the 21st, 22d, 23d, and 24th paragraphs thereof, regulating the floating of logs and other timber, shingles and staves down Connecticut river, be, and the same is hereby declared to extend to the floating of logs, lumber shingles and staves down the Ousatannick river.

TITLE CLXVI. *Turnpike Roads.*

CHAP. I.

See also 1803 p. 636
1797 p. 473

An Act concerning Turnpike Roads, and for keeping the same in repair.

[Enacted in May, 1806.]

Governour and council to appoint commissioners.

Their duties.

§1. BE *it enacted by the Governour and Council and House of Representatives in General Court assembled*, That the governour and council shall annually appoint on each of the turnpike roads, which now are or hereafter shall be established by law, (excepting as is herein after excepted,) two commissioners who shall be called commissioners of turnpike roads; and it shall be the duty of said commissioners, or one of them once in each year or oftener if in their opinion the public good shall require it, carefully to inspect the several turnpike roads on which they may be appointed commissioners as aforesaid; provided nevertheless, that no commissioners shall be appointed on those roads on which particular persons have heretofore been designated by law to inspect the same, excepting when the persons so designated shall happen from any cause whatever to be reduced to a less number than two; and in that case the governour and council, or the governour in the recess of the general assembly, shall make appointments so that there may be two persons designated for the purpose aforesaid; and in case of the death or resignation of any commissioner during the recess of the general assembly, such vacancy shall be supplied by the governour until the next session of the general assembly.

Governour when to supply vacancies.

When the gates to be thrown open.

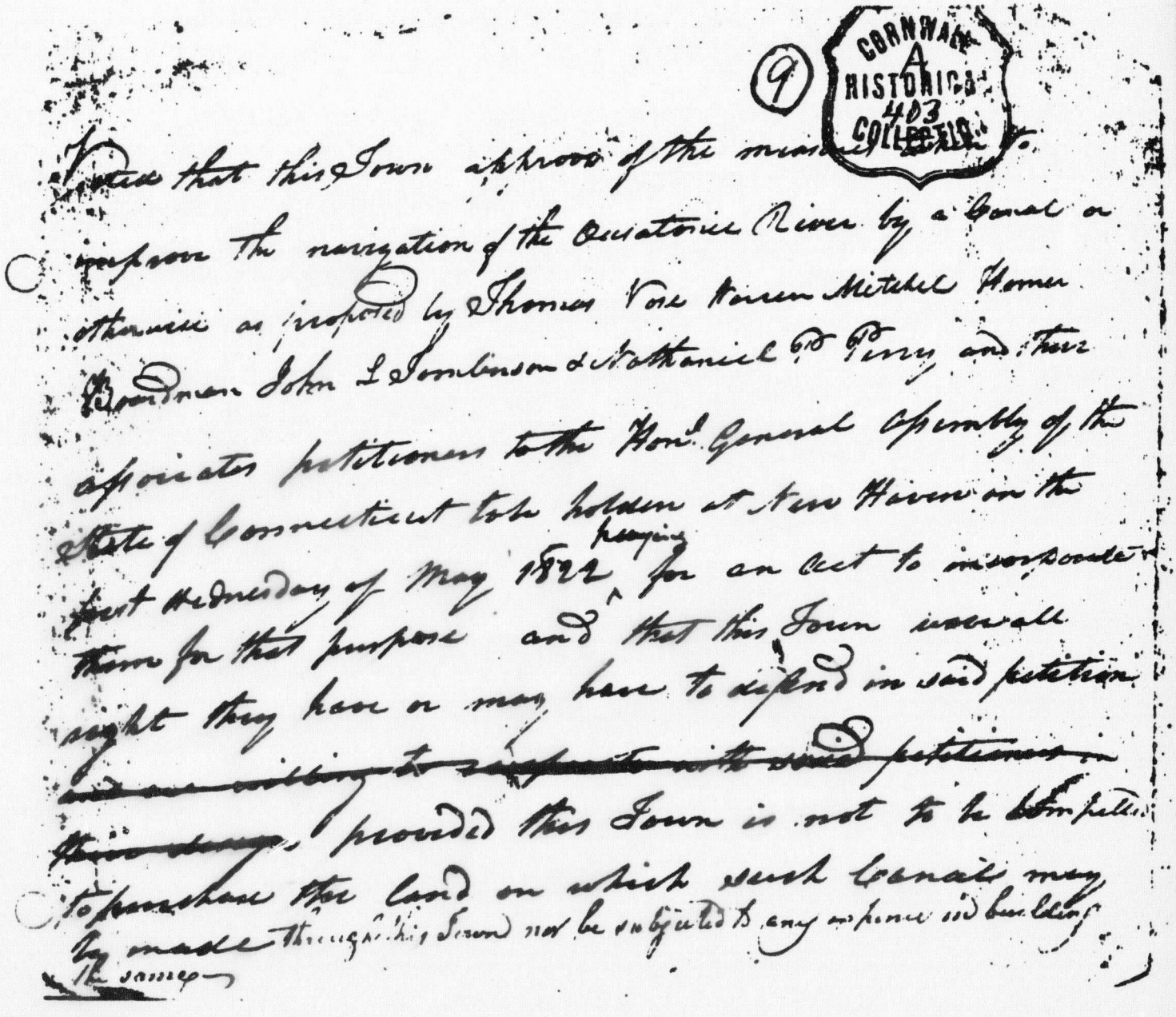
§2. *Be it further enacted*, That when in the opinion of said commissioners, any turnpike road which it may be their duty to inspect, shall not be kept in good and sufficient repair, such commissioners shall have power, and they are hereby fully authorized to order the gate or gates on such insufficient road

Exhibit 39

The following is a photo copy of a page from the town records of the Town of Cornwall (Connecticut). The original is in the collection of the Cornwall Historical Society in Cornwall, Connecticut.

Mrs. Gunnar Holmes of the Society aided Federal Power Commission staff personnel in locating the page. She, in addition, provided the identification of the page.

As an aid to the reader, staff has attempted to decipher the page. This is set-off by quotation marks and appears below the photo copy of the original.



"Voted that this Town approve of the measure proposed upon the navigation of the Housatonic River by a Canal or otherwise as proposed by Thomas Rose Warren Mitchell Homer Esqrs Doctor John L Tomlinson & Nathaniel B. Perry and their associates petitioners to the Hon.d General Assembly of the State of Connecticut to be holden at New Haven on the last Wednesday of May 1822 praying for an act to incorporate them for that purpose and that this Town indemnify them against all such damages as they have or may have to defend in said petition ~~and are willing to engage with said petitioners to pay~~ provided this Town is not to be compelled to purchase the land on which such Canal may be made through this Town nor be subjected to any expence in building the same"

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"Voted that this Town approve of the measure taken to improve the navigation of the Ousatonic River by a canal or otherwise as proposed by Thomas Van Warren Mitchel Homer Boardman John L. Tomlinson & Nathaniel T Terry and others (?) petitioners to the Hon. General Assembly of the State of Connecticut to be holden (?) at New Haven on the first Wednesday of May 1822 praying for an act to incorporate them for that purpose and that this Town was all right (?) they have or may have to defend in said petition .... provided this Town is not be be compelled to purchase the land on which such Canal may be made through this Town nor be subjected to any expense in building the same"

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TRAVELS;

IN

NEW-ENGLAND AND NEW-YORK:

BY

TIMOTHY DWIGHT, S. T. D. LL. D.

LATE PRESIDENT OF YALE COLLEGE;

AUTHOR OF

THEOLOGY EXPLAINED AND DEFENDED.

IN FOUR VOLUMES.

VOL. IV.

NEW-HAVEN:
PUBLISHED BY TIMOTHY DWIGHT.

S. CONVERSE, PRINTER.

1822.

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Dear Sir,

ON Wednesday, Sept. 19th, 1804, I began a journey to the falls of Niagara. I was detained by rain until three o'clock in the afternoon, and then rode to Watertown: twenty-six miles. The next day I proceeded to Sheffield: forty-one miles. At Litchfield, and afterwards at Canaan, I had expected to find my destined companions in this excursion; but missed of them in both places. At the latter, after a solitary ride of between fifty and sixty miles, I found some gentlemen going to Sheffield, whose company made the remainder of the way very agreeable. The day was remarkably cold for the season, and was followed by a severe frost: the ice at Sheffield being, the next morning, about the thickness of a dollar, and the tender vegetables generally destroyed. During the preceding nine years there has not, in those parts of the country where I have journeyed, been a frost, sufficiently intense to destroy vegetables of this class, until about the middle of October.

At Sheffield, I found two gentlemen designing to set out for Kaatskill,* and with them I proceeded very pleasantly on the journey. The road turns directly West from Sheffield, and en-

*The name of this town was originally spelled *Kaatskill*, but has since been altered by the Legislature to *Catskill*.—*Pub.*

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ters the State of New-York in the township of Hillsdale. The part of it, which is in Massachusetts, is alternately, a forest, and a collection of solitary settlements.

About a mile and a half from Sheffield we passed by a number of workmen, employed in sawing, grinding, and polishing marble. Immense quarries of this mineral are found in the range of hills, at the foot of which their works were erected. It is white, and generally of the same texture with that at West-Stockbridge. The workmen, however, showed us some specimens of a much finer quality, and very beautiful. The business is here in its infancy; but, if pursued with industry and prudence, can scarcely fail of being profitable.

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The ascent of the Taghkannuc range, on the Eastern side, is gradual and easy; on the Western, the declivity is longer and steeper. From the bottom of this range the tributary streams of the Hudson run through a country twenty miles in breadth, with a rapidity not less than that, with which those of the Hooestennuc run five miles. Both the valley, and the bed of the Hudson, therefore are much nearer the level of the ocean, in this latitude, than those of the Hooestennuc. This conclusion is obvious, also, from an attention to the current of these rivers. That of the Hooestennuc, from Canaan to Derby, is almost universally rapid; and is interrupted by several falls, and rifts. The whole perpendicular descent of these must be more than two hundred feet; and that of the general current, much more. From Canaan to the Sound, the length of the river, as measured on the road is seventy-two miles; and this distance, although the road follows the course of the river in a remarkable degree, is yet short of the truth. Almost all this distance is a continued ripple. Three hundred feet will be a moderate allowance for such a descent throughout such a distance. In the Hudson there is not even a rapid, below Troy.

The first township, through which we passed, after leaving Sheffield, was Egremont in Massachusetts, bordering upon the Western line of the State, and lying on the summit and Eastern declivity of Taghkannuc. The soil of this township is generally

good. The settlement is comparatively recent. The inhabitants live on scattered plantations; and suffer the usual inconveniences, both moral and physical, of such settlements. Their number in 1790, was 759; in 1800, 835; and in 1810, 790.

From the ridge of this mountain there is a handsome view of the Green Mountain range, and a noble one of the Kaatskill mountains.

The stone found on Taghkannuc, so far as we had an opportunity to observe it, is principally blue, shining schist; like that, formerly mentioned, on Saddle mountain.

After we began to descend from the ridge, we saw on the left, between two steep declivities, a small and very beautiful valley; of a rich soil and verdure, so narrow, and so deep, as to be styled without impropriety, a ravine. In this retired spot stood a few humble dwellings, which appeared, as if every storm, both of the natural and the political world would, pass over them without disturbing their peaceful inhabitants. No spot has presented to my eye more forcibly the idea of being sequestered from intrusion and bustle. It was a valley of Switzerland: and I felt as if it would be easy to find in this little cluster the cottage of Venoni.

When we had passed the line, which divides Massachusetts from New-York, the appearance of the country, in many respects, was changed in an instant. The houses became ordinary, and ill-repaired. A great number of them were taverns; generally, however, of so wretched an appearance, as must, one would think, prevent the entrance of any traveller. Not a church, nor a school-house, was visible till we reached Claverack; at the distance of sixteen or eighteen miles. About the taverns, early as it was, were gathered a number of persons from the neighbourhood; idling, and drinking, away their time; rude in their appearance, and clownish in their manners.

From the ridge to Claverack the whole country is slate ground; the soil tolerably good, and the surface an alternation of hills and vallies. There is so much sameness in the succession, as to make the whole prospect tame, and dull; without any thing picturesque, or even sprightly. The houses, also, are generally indif-

Exhibit 40

Exhibit 41

THE

HISTORY

OF THE

Old Town of Derby,

CONNECTICUT,

1642-1880.

WITH

BIOGRAPHIES AND GENEALOGIES.

BY

SAMUEL ORCUTT,

Author of the Histories of Torrington and Wolcott, Conn.

AND

AMBROSE BEARDSLEY, M. D.

PRESS OF SPRINGFIELD PRINTING COMPANY,
SPRINGFIELD, MASS.
1880.

STEAM-BOATING ON THE OUSATONIC.

On a bright Sunday morning in the summer of 1824, the *General Lafayette* rested upon the bosom of the Ousatonic. A steamboat at that time was a great curiosity, and thousands made "a Sabbath day's journey" to see its advent into Derby. As she steamed up the river, passed the highlands and neared Derby wharf, the streets were filled and the shores lined with spectators eager to catch a glimpse at the invention which has rendered the name of Robert Fulton immortal. Imagine yourself back more than half a century, when the almost barren fields now dotted by the thrifty villages of Birmingham, Ansonia and Shelton were cultivated by the rustic ploughman, and Derby Narrows was a little neighborhood, and see fathers and mothers with their children, rushing from the hillsides and back settlements, many of them for the first time to witness a steamboat, and the reader is inspired with the thought that there was some enterprise in Derby, years ago. The *Lafayette* was a small boat built with a mast and bowsprit and had side wheels. Thomas Vose her captain, was in ill humor on her first trip. At old Washington bridge, at the mouth of the river, long an eye-sore to Derby interests, a dispute arose as to letting the boat through the draw, when Capt. Vose said with emphasis, "I have sailed over the Atlantic for years, and I have the honor to command this boat; let me through; my orders must be obeyed, right or wrong." The man at the draw obeyed, and the boat was put through, not however without producing a fearful fracture of the box that inclosed one of the side wheels of the boat. On her arrival in Derby, a boy remarked that she had "lost one of her ears." The next day was the Fourth of July, and the boat was advertised to make an excursion on the Sound. What was to be done? Why! they rallied Truman Gillett from his devotions, and with his apprentice boys, although it was a holy day, the boat was repaired and with flying colors, on Monday morning sailed down the river, with many Derby adventurers on board, returning at an unseasonable hour.

The *Lafayette* was owned mostly by a company in New York,

and destined to run between that city and Derby, touching the borough of Bridgeport on her regular trips. Meeting with united opposition from a line of Derby packets, the *Parthenia*, *Commodore* and *Pulpit*, these combined making three voyages a week through the season, the *Lafayette* was obliged to succumb and sell out to Bridgeport parties, who at that time were jealous of Derby's prosperity. Derby, then a sea-port town was ambitious of keeping up the commerce of the place. The citizens of Bridgeport had no steamboat, and to head off Derby, they bought the *Lafayette* which was lucky for the owners, for it was a sort of elephant on their hands, not being adapted to the navigation of our river. One of the above packets, the *Pulpit*, was fast sailing, built by a Congregational minister, and while running against the boat never lost a trip during the summer season; so it seems our first steamboat had strong opposition even from Derby citizens. Not satisfied with their first experiment, a part of the people of Derby had a steamboat built under the superintendence of Capt. Vose, expressly for the navigation of the Ousatonic, and it was called after the name of the river, the *Ousatonic*. After running one season between Derby and New York, she was run into the cove once owned by Gen. David Wooster, about four miles from the mouth of the river, where she remained for the winter. The next spring she commenced her regular trips, but meeting with the old opposition of Derby packets besides interfering with the sloop navigation of Bridgeport, she passed into other hands and steamboating on the Ousatonic was not attempted again until 1836. The founder of Birmingham, Sheldon Smith, promised the villagers that they should have steamboat facilities. He first put on the *Caroline*, which was destined to run up to Birmingham; but this boat with Capt. Battell did not prove a success. Mr. Smith in his zeal then built a dyke and expended several thousand dollars in deepening the channel across the river, when he purchased the little steamer *Maria* which made several trips in 1837 between New York and Birmingham. On her last trip, Capt. John C. Hotchkiss in command, when nearing the Birmingham wharf one Saturday evening, the boat instead of rounding the dyke ran upon it at high water and was fast, the passengers being transported to Birmingham in boats, and

Exhibit 41

Ex. 42-A

The following materials were received by Commission staff on January 13, 1975. They are tentatively identified as Exhibit CDH-22-A _____, pages 2 through 7, as an aid to the parties. Page 6 has been marked for identification by the presiding administrative law judge as the primary part of Exhibit No. 42, which had been tentatively identified as Exhibit CDH-22 _____, pages 1 and 2. As to the following materials, page 2 is a photo copy of Mrs. Holmes' letter to staff. Pages 3 through 7 are photo copies of photo copies made by Mrs. Holmes of a May 8, 1912, letter by Silas G. Patterson (page 3) and of a hand-written copy of part of a 1716 deed (pages 4 and 5) as well as the copy's accompanying memorandum, signed by Mr. Patterson (pages 6 and 7). In her letter to staff, when Mrs. Holmes refers to "page 3 and 4," she is referring to the numbers at the top, right corners of exhibit pages 6 and 7. The marginal notes on page 3 are by Mrs. Holmes.

Ex. 42-A

January 10, 1974

Mr. Philip Teleen
Commission Staff Council
Federal Power Commission
Washington, D.C.

Dear Mr.

Enclosed find copy (Right) of a document from the Cornwall Historical Society records in which Silas G. Patterson, Surveyor refers to Mast Swamp.

The document is a handwritten copy by Patterson of an Indian Deed known as "Weromaug's" Deed. (See top of first page)

You will note that on page 3 and 4 Patterson is giving his own data referring to places mentioned in the deed.

I hope this is sufficient for your needs. I have personally seen the original Weromaug Deed in the Connecticut Historical Society, 1 Elizabeth Street, Hartford. Mr. Patterson has copied accurately.

Sincerely yours,

Paula V. Holmes
Curator, Cornwall Hist. Society

Subscribed and sworn to before me, this 10th day of January, 1975. Madeline F. Fenn
Town Clerk, Duly Authorized by State Statute

Cornwall Bridge Conn
May 8th 1912.

CORNWALL HISTORICAL COLLECTION

Rev E.C. Starr
Cornwall Conn

Dear Sir

The day we were appointed on names Mr L.J. Nickerson told one what he would like his place called but-I made no memorandum of it-and now have no idea what it was. I dont think I have any thing new in the line of names- As to typewriting and distributing I know nothing except what you wrote-I have wondered if the town would order your report printed and distribution or sale made. I send you as much of Copy of the Weromaug deed as I copied-If I had had more time or known some one would have been interested I should have been pleased to have made an exact copy of the whole.
I hope my memorandum on the other paper may not seem too much of an intrusion

Very truly yours
Silas G Patterson

reference to copy

---

above is letter to Starr found with Patterson's copy.

BEST COPY AVAILABLE

(2)

In the office of the Secretary of State in the Capital at Hartford Conn in Book 4 of Patents Page 36 is a record of an Indian Deed given by "Weromaug" and his Chiefs to Benjamin Fayerweather and his associates.

Weromaug M his mark.

The following description is given in the deed

Silas G. Patterson Counsell May 7th 1912

A certain tract of land supposed to Lye in the Colony of Connecticutt or Province of Massachusetts Bay in New England or in the Province of New York - Either in part or whole as may be known upon the settlement of The lines between the said government and Lays upon the Easterly side of Stratford Great River and is bounded on New Milford Townships on the South or Southerly - beginning by the said river side over against which there is a brook comes into ye River on ye west side the East Corner being a White oak tree that stands about 4 Rod from ye River with stones laid to it and it is marked with the Letters B F: W: N L. R G: and runs from thence something to ye eastward of the north full one mile to another White Oak Leaning Tree where is also a heap of stones Laid to it and it is also marked the Letters B F: W: N L R G. and it runs all along the River before said as ye said River runs the said breadth of one full mile from the River side for about five and Twenty or Thirty rods by estimation till it extends as far as to Comprise and take in the whole of the Mast Swamps so called that Lyes in said river being about Two and a half mile beyond the Deep Brook that runs into ye said River on ye East side being at ye

(3)

entrance of ye said Swamp whereat ye mouth of a Little River on the North side of a Red Ash Tree there is a heap of Stones by the River side and marked with the letters B.T. N.L. R.L. W and so runs something to ye Eastward of ye North One Mile crossing ye said River to ye top of a great Mountain to a Tree with stones laid to it and marked with letters as before - the whole tract of land together with the Island that is in the River (against the Mast Swamp so called) which we have sold as aforesaid for the use aforesaid is Bounded Northerly and Easterly with our own land Westerly on ye said great River and southeasterly with New Milford Town ships Together with all and singular the rights profits privileges Trees & Grass Brooks Rivers. Rights Mines minerals profits privileges & Interests Hereditaments and appurtenances to ye said tract of land and Island aforesaid belonging or otherwise appertaining and also ye use and benefit of the said Great River to pass and repass at all times and at all times with Rafts Trees Logs or Boat Else as ever without any interruption or Molestation forever."

Forms of Warrantee - Acknowledgement &c follow - Dated June 17 1716.

orked Item #4 at
January 7, 1975 FPC Hearing

(A)

The South line of the Weomang tract was the original north line of New Milford and ran east as indicated by the magnetic course of about the year 1700 or probably 5 years later. That line ran about 25 rods more or less north the present Merrimville depot not far from where the water tank stands by track. Afterwards the inhabitants of New Milford purchased of the Colony Lands lying north a strip on the north line of New Milford 1½ miles wide which was incorporated with the town. This for a time was called the New Milford North Purchase. A little later a strip of land about one mile wide adjoining this North Purchase was sold by the Colony to Benjamin Fayerweather - Wm Whiting, Nehemiah Lovins and others known as "Benjamin Fayerweather and his associates" This purchase was described as running east from the river 6½ miles to and partly in Weomang Lake and for a long time was not incorporated in any town but was finally in that

The Little River mentioned as the north limit of Weomangis Grant is the Furnace Brook and the north line running east probably crossed the brook probably above the Furnace to the top of Calls foot. The Mast Swamp extended south from here 2 or 3 miles and on this tract timber for ship masts was cut and floated down the river. A man was killed when felling one of these trees a little south east of where the new school house stands. The "Deep Brook" below Mast Swamp is the one between where the old Main Easterly turned and where Mill Lane runs and crossed by the big 4 bridge. I had never thought of it as the "Deep Brook" and was pleased to see how accurately those old pioneers had surveyed it long before a white man settled near them New Milford or Litchfield. Weomang died 1735. Belthazar Bay and possibly an ancestor of Senator Bay and several other prominent Boston people were interested in the "Fayerweather Purchase" mile later Rev

(5)

Samuel Johnson 1st president of King's afterwards named Columbia College as were also his descendants Wm Samuel Johnson, Saml Wm Johnson, Elizabeth Seymour Blake and Georgiana P. Seymour Townsend owned within the grant as late as 1867 or later.

The Boundstone Creek was early Stratford Great River or Pawtucket and later Quaatuminuck and not generally written Housatonic till after 1820.

My time at the Secretary of State's office was limited and I only copied as much of the Weromaug deed as I needed in May 1906. Very respectfully

Dickerman Patterson

To Rev E. E. Starr

(5)

Quaatuminuck from Weromaug 1716.

Exhibit 43

The following is a photo copy of an introductory page from Edward C. Starr's A History of Cornwall, Connecticut, published in 1926. It may aid the use of several pages of Starr's book which were photo copied, tentatively identified as Exhibit CDH-7 _____ (an exhibit of 4 pages), and on October 18, 1974, filed with the Secretary of the Federal Power Commission and sent to all parties.

INTRODUCTORY

In this history it is assumed that the reader has perused the excellent volume by Hon. T. S. Gold, which in a measure is here supplemented. It specially abounds in personal details and recollections, and is herein referred to as GOLD for brevity. In like manner STONE refers to the manuscript historical writings of Rev. Timothy Stone, now in the Cornwall library (H. 400 S.). I have tried to be accurate, but do not guarantee my facts, as they are not of my manufacture, and often a statement is selected from several that are irreconcilable,—especially in dates. Every reader will wonder why some things are here written and others omitted. He is welcome to guess. I have few explanations to offer, and no apologies.—"who excuses accuses." Those whose names are starred are further noticed in the BIOGRAPHICAL section. Italicized names refer the reader to the MILITARY section for their record in war. "DEXTER" is the way Prof. Dexter's *Yale Annals and Biographies* is quoted. "CONTRIB." means *Contributions to the Ecclesiastical History of Connecticut* (H. 18.). "CONN. MEN" refers to the State's volumes *Connecticut Men in the Revolution*, and *in the Rebellion*. H. with a number tells the place in the Cornwall Library where a cited book may be found. Other references probably need no explanation here.

Mr. Gold gives documents connected with the settlement of the town, and personal sketches. Mr. Stone tells of localities and individuals. The Proprietors, and Town and Church Records are well preserved, also those of some school districts, and various organizations. Diaries have helped somewhat. The last quarter of the eighteenth century takes much space because then came the Revolution; the beginning of all churches except the First, and, in that, the conflict which created the Second. This was one cause of making a village at the Plain and of the decay of the Center and the almost disappearance of its Green. Sedgwick's *Impartial Narrative* and Gold's *Reply* (H. 400) are important historically, and display an abundant politico-ecclesiastical militancy. But for thirty years both parties took turns in overtures for union despite geographical and financial as well as personal difficulties. I have tried to include all that is of value down to 1800 in these pages. With that date the GENEALOGICAL section ends. For documents connected with the rise of the Second Church see ECCLESIASTICAL. All the chief items in the records of the town are to be found either in the ANNALS or other special sections down to 1925.

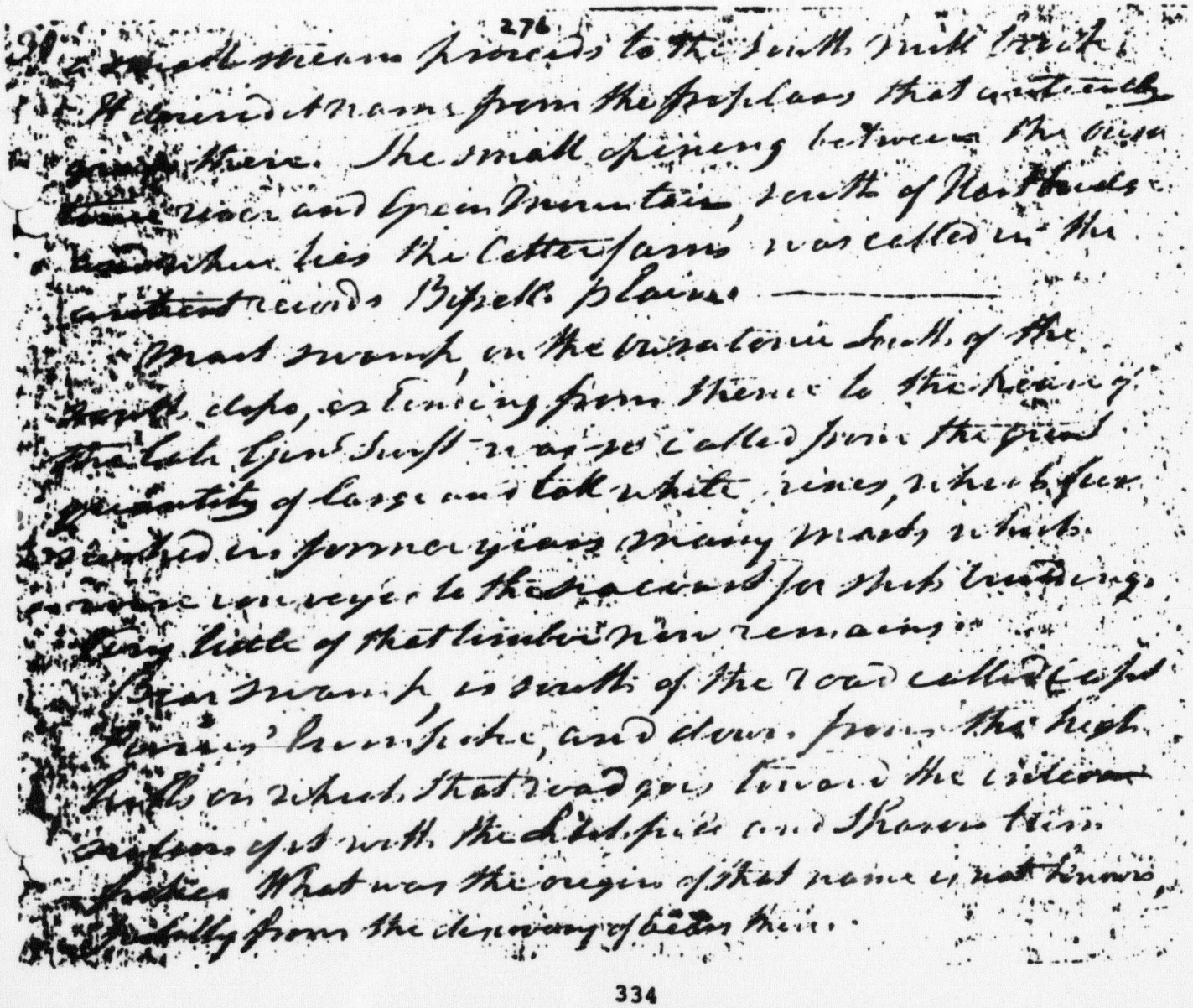
"Here begins the history of the English people," says Macaulay of Magna Charta, but "In the beginning God created the heavens and the earth"; and so begins, more properly, the history of the town of Cornwall,—and of all other places or peoples, as well as of the Hebrew nation. Whether that creation was "out of nothing," or matter is eternal, the historian does not care; Cornwall was settled before LaPlace devised the nebular hypothesis to explain how it was made. "God created man," for the next step, whether by the long development that Darwin and Wallace devised, or by an original method not yet revealed, is immaterial; "in his own image," and "out of the dust of the earth," are both verified in these pages. Other steps have followed which have affected our present daily life; the carboniferous period furnishes motor power, the glacial age has directed the lay-out of our fields, and roads, and the setting of our dwellings. The laws of Hammurabi, and their mosaic

Exhibit 44

The following is a photo copy of a page from an unpublished manuscript written in 1825 by Rev. Timothy Stone. The original is in the collection of the Cornwall Historical Society in Cornwall, Connecticut in a box of materials marked, "Stone."

Mrs. Gunnar Holmes of the Society aided Federal Power Commission staff personnel in locating the page. She, in addition, provided the identification of the page.

As an aid to the reader, staff has attempted to decipher the page. This is set-off by quotation marks and appears below the photo copy of the original.



"276

31 ... proceeds to the South, until it reaches
... Mountains from the Bridges that are nearly
... there. The small opening between the Cliffs
... and Great Mountain, south of Northfield
... lies the Cattle pass recorded in the
... records Bigelow plains.

... mark, on the westerly side of the
... slope, extending from thence to the head of
... Lake Pond. Just ... called from the great
... quantity of large and tall white pines, which grew
... in former years. Many masts which
... conveyed to the Sea and for ship building
... little of that timber now remains.

... mark is south of the road called East
... Street, and down from the high
... on which that road goes toward the Litchfield
... yet with the Litchfield and Kent lines.
... What was the origin of that name is not known
... from the discovery of Cedar there."

Exhibit 44

"a small stream proceeds to the south mill brook. It derived its name from the poplars that constantly (?) grew there. The small opening between the Ousatonic River and Green Mountains, south of Northbridge (?) and where lies the Catter farms was called in the ancient records Bipells Plain.

Mast Swamp on the Ousatonic south of the south slope (?) extending from thence to the house of the late Gen. (?) Swift was so called from the great quantity of large and tall white pines, which furnished in former years many masts which were conveyed to the seacoast for ship building. Very little of that timber now remains. from transported

Bear Swamp is south of the road called Capt. Passes (?) Turnpike and down from the high hills on which that road goes toward the intersection of it with the Litchfield and Sharon Turnpike (?). What was the origin of that name is not known probably from the discovery of bears there."

Exhibit 45

Energy Transferred to or Across State Lines
For The Year 1973 By The Connecticut Light And Power Company

Name of Company	Energy Received By CL&P (KWh)	Energy Delivered By CL&P (KWh)
Consolidated Edison Company New York	0	1,018,760,000
Narragansett Electric Company Rhode Island	386,075,000	476,000
Western Massachusetts Electric Company Massachusetts	49,180,000	0
Long Island Lighting Company New York	91,853,000	61,414,000

Exhibit ____ (B-1)

Interstate Transactions of Energy of
The Connecticut Light & Power Company

Line Terminals	Line Load at Time of Monthly System Peak-(MW) (1970)			
	April	August	October	December
Southington to New York State Line	138	194	(49.8)	136
Card Street to Rhode Island State Line	-	-	-	110
Clark Street (HELCO) to Conn-Mass. State Line	163	128	194	(86)
Mystic to Rhode Island State Line	30.4	65	63.8	57.8

Line Terminals	Line Load at Time of Monthly System Peak-(MW) (1971)			
	April	August	October	December
Southington to New York State Line	134	296	222	112
Card Street to Rhode Island State Line	102	299	250	421
Clark Street (HELCO) to Conn.-Mass. State Line	186	50	104	(15)
Mystic to Rhode Island State Line	77.4	89.6	77.6	38.6
Norwalk Harbor to Long Island	1	44.5	10.5	.2

Line Terminals	Line Load at Time of Monthly System Peak-(MW) (1972)			
	April	August	October	December
Southington to New York State Line	236	200	(32)	(8)
Clark Street (HELCO) to Conn.-Mass. State Line	338	114	(61)	(104)
Card Street to Rhode Island State Line	302	80	0	(150)
Scitico to Massachusetts State Line	-	-	(illegible)	(6.7)
Mystic to Rhode Island State Line	108.6	96	85.6	73.2
Norwalk Harbor to Long Island	(4.0)	2	(51.3)	(5.5)

Line Terminals	Line Load at Time of Monthly System Peak-(MW) (1973)			
	April	August	October	December
Southington to New York State Line	222	-	-	-
Clark Street (HELCO) to Conn.-Mass. State Line	N.A.	N.A.	N.A.	N.A.
Card Street to Rhode Island State Line	N.A.	N.A.	N.A.	N.A.
Frost Bridge to New York State Line	-	198	(132)	88
Scitico to Massachusetts State Line	(5)	(14)	(12.1)	(12.2)
Mystic to Rhode Island State Line	117.6	56.4	44	71.2
Norwalk Harbor to Long Island	(107.5)	(152.0)	(100.0)	45.0

Exhibit 46 (B-2)

338

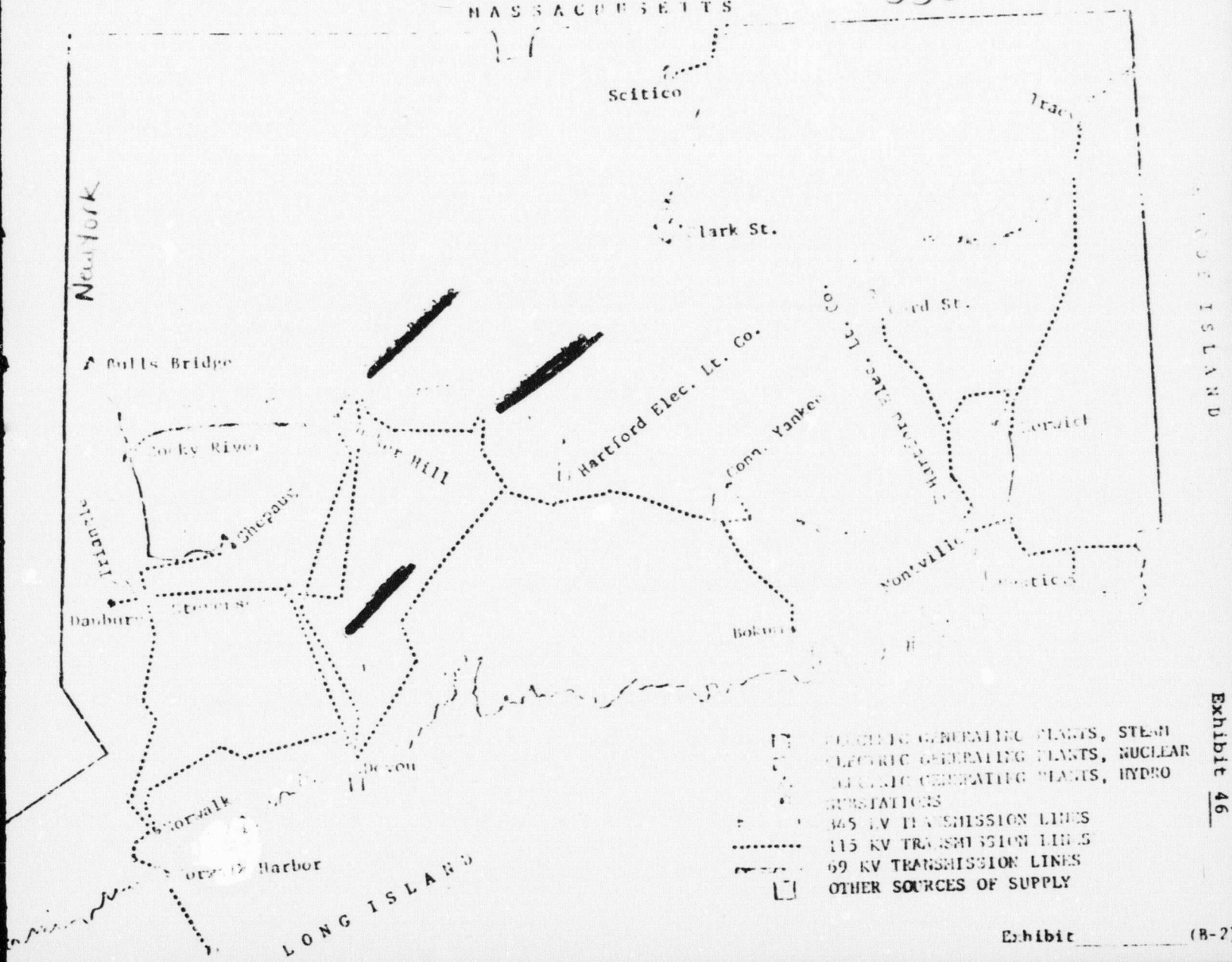


Exhibit 46

Exhibit (B-2)